

SENATE BILL 54

M3

9lr0086

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request
– Departmental – Environment)**

Requested: October 9, 2018

Introduced and read first time: January 9, 2019

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 7, 2019

CHAPTER _____

1 AN ACT concerning

2 **Surface Mining – Zone of Dewatering Influence – ~~Contested Case Hearing~~**
3 **Remedies**

4 FOR the purpose of requiring a certain surface mining permittee to immediately implement
5 certain safety measures under certain circumstances; specifying that a certain
6 provision of law requiring the Department of the Environment to provide
7 opportunity for a contested case hearing may not be construed to ~~waive~~ stay certain
8 requirements under certain provisions of law relating to the zone of dewatering
9 influence around a surface mine; correcting an obsolete cross-reference; making a
10 stylistic change; and generally relating to the zone of dewatering influence around a
11 surface mine.

12 BY repealing and reenacting, with amendments,
13 Article – Environment
14 Section 15–813
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2018 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Environment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 15–813.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) “Dewater” or “dewatering” means to pump water out of a pit.

4 (3) “Karst terrain” means an irregular topography that is:

5 (i) Caused by a solution of limestone and other carbonate rock; and

6 (ii) Characterized by closed depressions, sinkholes, caverns, solution
7 cavities, and underground channels that, partially or completely, may capture surface
8 streams.

9 (4) “Lineaments” means the surface manifestation of cracks, fissures,
10 fractures, and zones of weakness that, generally, are observable on aerial photographs as
11 straight or nearly straight lines.

12 (b) (1) If a permittee is issued a water appropriation permit under § 5–502 of
13 this article to dewater a pit located in karst terrain in Baltimore, Carroll, Frederick, and
14 Washington counties, the Department shall establish, as a condition of the permittee’s
15 surface mining permit under § 15–810 of this subtitle, a zone of dewatering influence
16 around the surface mine.

17 (2) The areal extent of the zone of dewatering influence shall be based, as
18 appropriate, on local topography, watersheds, aquifer limits, and other hydrogeologic
19 factors, including the occurrence of natural fractures, cracks, crevices, lineaments, igneous
20 dikes, changes in rock type, and variations in the water-bearing characteristics of
21 formations.

22 (c) Within the zone of dewatering influence established under subsection (b)(1) of
23 this section, the permittee shall:

24 (1) Replace, at no expense to the owner of real property that is affected by
25 the surface mine dewatering, a water supply that fails as a result of declining ground water
26 levels; ~~and~~

27 **(2) ON DISCOVERY OF A SUDDEN SUBSIDENCE OF THE SURFACE OF**
28 **THE LAND, IMMEDIATELY IMPLEMENT APPROPRIATE SAFETY MEASURES TO**
29 **PROTECT PUBLIC HEALTH AND SAFETY; AND**

30 ~~(2)~~ **(3)** [Upon] **ON** a determination by the Department of proximate
31 cause after the permittee has received proper notice and an opportunity to respond and
32 provide information, pay monetary compensation to the affected property owner or repair
33 any property damage caused as a result of the sudden subsidence of the surface of the land.

1 (d) (1) An individual domestic water supply within a zone of dewatering
2 influence that is no longer capable of yielding water because of declining water levels shall
3 be considered to be replaced adequately by a permittee if the permittee provides for the
4 affected property owner a new or retrofitted well that is capable of meeting the minimum
5 yield requirements established in regulations adopted by the Department of the
6 Environment during the period of pit dewatering.

7 (2) A municipal, industrial, commercial, institutional, or farming water
8 supply within a zone of dewatering influence that is no longer capable of yielding water
9 because of declining water levels shall be considered to be replaced adequately by a
10 permittee if the permittee provides for the affected property owner a new or retrofitted well
11 or other alternative water supply that is capable of yielding water equal to the volume used
12 or needed by the property owner before the disruption of water supply.

13 (e) (1) Real or personal property within the zone of dewatering influence in
14 karst terrain in Baltimore, Carroll, Frederick, and Washington counties found by the
15 Department to have been damaged as a result of sudden land surface subsidence shall be
16 considered to be repaired adequately by a permittee if the permittee returns the damaged
17 property to its condition before the subsidence of the surface of the land.

18 (2) If the damaged real or personal property is not capable of being restored
19 to its pre-subsidence condition, the permittee shall compensate the owner of the real or
20 personal property monetarily by the difference of the fair market value of the property as
21 the property would exist but for the sudden land subsidence, and the fair market value of
22 the property as a result of the damage.

23 (3) Notwithstanding the other provisions of this subsection, the permittee
24 and the property owner may agree on monetary compensation or other mitigation in lieu of
25 restoration.

26 (f) The Department may not require a permittee to replace water supplies, as
27 provided in this section, if the permittee demonstrates to the Department by clear and
28 convincing evidence that the proximate cause of the loss of water supply is not the result of
29 pit dewatering.

30 (g) (1) The Department shall provide opportunity for a contested case hearing
31 in accordance with [the provisions of § 5-204 of this article] **TITLE 10, SUBTITLE 2 OF**
32 **THE STATE GOVERNMENT ARTICLE.**

33 (2) **THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE STAY THE**
34 **REQUIREMENT TO REPLACE A WATER SUPPLY OR REPAIR ANY PROPERTY DAMAGE**
35 **IMPLEMENT APPROPRIATE SAFETY MEASURES UNDER SUBSECTION (C) OF THIS**
36 **SECTION.**

1 (h) The Department shall adopt regulations to establish an administrative
2 process to expedite the resolution of water supply loss or property damage claims arising
3 under this section.

4 (i) Compensation, restoration, or mitigation provided by this section does not
5 apply to:

6 (1) Improvements that are made to real property within an established
7 zone of dewatering influence following a final decision by the Department to issue a surface
8 mining permit; or

9 (2) Improvements that are made to real property following the
10 establishment of a zone of dewatering influence as a condition of an existing surface mine
11 permit.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.