

# SENATE BILL 54

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9lr0086

(PRE-FILED)

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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

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## A BILL ENTITLED

1 AN ACT concerning

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

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

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

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

16 **Article – Environment**

17 15–813.

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

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

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (4) "Lineaments" means the surface manifestation of cracks, fissures,  
5 fractures, and zones of weakness that, generally, are observable on aerial photographs as  
6 straight or nearly straight lines.

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) **THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE THE**  
22 **REQUIREMENT TO REPLACE A WATER SUPPLY OR REPAIR ANY PROPERTY DAMAGE**  
23 **UNDER SUBSECTION (C) OF THIS SECTION.**

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

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

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

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

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