



Senate Environmental Resources and Energy Committee

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Summary Senate Bill 1346, P.N.1813

Prime Sponsor: Senator Kasunic

- Amends Title 27 (Environmental Resources) to limit the liability of a landowner who provides mine drainage water or an operator who uses mine drainage water in hydraulic fracturing operations for natural gas extraction.
- A landowner who allows the withdrawal of polluted water from eligible land and water that originates from a mining activity site, or a natural gas operator who withdraws polluted water from eligible land and water that originates from a mining activity site and utilizes the polluted water to hydraulically fracture a conventional or unconventional natural gas well and reuses, recycles and properly disposes of any unutilized hydraulic fracturing waste water *shall be immune* from liability and may raise the protections afforded by this chapter in any subsequent legal proceeding which is brought to enforce environmental laws or otherwise impose liability in regard to the eligible land and water or any existing water pollution abatement facilities on the eligible land and water.
- A natural gas operator will only be eligible for the protections and immunities provided under if a written plan of the polluted water withdrawal, utilization and disposal is submitted to and approved by the department.
- The written plan must meet the following criteria:
 - Provides that use of the polluted water will preserve water quality and availability in this Commonwealth through the use of polluted water in hydraulic fracturing of conventional and unconventional natural gas wells.
 - Provides for proper storage of the polluted water during its use and the ultimate proper disposal of the polluted water following its use.
 - Demonstrates that withdrawal of polluted water will not cause or contribute to water pollution at the site of the withdrawal from eligible land and water or any other location hydro geologically connected to the withdrawal site and will not otherwise affect or threaten a current or proposed mining operation.
- A natural gas operator who withdraws polluted water from a mining activity site on eligible land and water for use in hydraulic fracturing natural gas wells shall:

- Not be deemed to assume legal responsibility or liability for any preexisting water pollution on or hydro geologically connected to the withdrawal site or the use of the water.
- Not be subject to a citizen suit filed under the Clean Streams Law for pollution resulting from withdrawal of polluted water and its subsequent use.
- Nothing in this legislation limits the liability of a natural gas operator who withdraws polluted water for the use in hydraulic fracturing which results in:
 - Injury or damage resulting from the natural gas operator's acts or omissions which are negligent, reckless or constitute gross negligence or willful misconduct.
 - The natural gas operator's unlawful activities.
 - Damage to landowners or other persons which result from a withdrawal of polluted water if the written plan was not provided to and approved by the department.
- A landowner who provides access to the land which results in withdrawals of polluted water for use in hydraulic fracturing shall:
 - Be immune from liability for any injury or damage suffered by a natural gas operator withdrawing polluted water while the natural gas operator or its employee is within the land necessary for withdrawal of the polluted water.
 - Be immune from liability for any injury to or damage suffered by a third party that occurs as a result of an act or omission of a natural gas operator.
 - Be immune from liability for any injury to or damage suffered by a third party which occurs as a result of a withdrawal of the polluted water.
 - Not be deemed to assume legal responsibility for any water pollution resulting from a withdrawal of polluted water from a change in environmental conditions at the mining activity site or any site hydro geologically connected resulting from a withdrawal of polluted water.
 - Not be subject to a citizen suit filed under the Clean Streams Law for pollution resulting from withdrawal of polluted water and its subsequent use.
- A landowner is obligated and assumes liability to warn a natural gas operator of known abnormally dangerous conditions located on the land in the area necessary to withdraw polluted water.
- Nothing in this legislation limits the landowner's liability which results from the withdrawal of polluted which results in:
 - Any injury or damage resulting from the landowner's acts or omissions which are negligent, reckless or constitute gross negligence or willful misconduct.
 - The landowner's unlawful activities.
- Effective date: 60 days.