

OPPOSE Senate Bill 151
Senate Bill 151 – Constitutional Amendment – Environmental Rights
Senate Judicial Proceedings Committee

Columbia Gas of Maryland, Inc. opposes Senate Bill 151, which proposes an amendment to the Maryland Constitution to establish that every person has the right to a clean and healthy environment, and that any person may enforce such rights. Columbia Gas opposes SB 151 because it significantly changes the legal landscape in Maryland in regards to standing (i.e., the ability to bring a court action against another party) and private property rights.

At the outset, Columbia Gas notes that it is committed to providing its customers with safe and reliable natural gas utility service in an environmentally responsible manner. However, Columbia Gas opposes Senate Bill 151 due to the ramifications that are likely to occur if the bill is passed. Under Maryland law, an individual only has standing to bring court action against another party if that individual is aggrieved personally and specifically, in a manner that differs from the general public [See *Sugarloaf v. Dept. of Environment*, 344 Md. 271, 288, 686 A.2d 605, 614 (1996)]. Senate Bill 151, part F, substantially departs from existing law in that it would provide any individual with the right to bring a court action against another party if the individual alleges interference with a “clean and healthy environment,” even if that individual is not personally aggrieved. In other words, an individual will be able to sue simply for an alleged injury to the environment, not an injury to him/her self.

Changing the standing standard will likely have significant adverse impact on any business operating in Maryland that touches the environment in any way. For one, it is anticipated that businesses will face an increase in the number of court actions brought by individuals, as the basic threshold of having standing will no longer limit these types of legal actions. Further, by letting generic claims of environmental harm be addressed in the courts, it will be the courts that will ultimately set public policy on environmental issues as opposed to the legislature. This creates uncertainty for businesses and potential conflicts with the other public policies of the legislature.

Senate Bill 151 also raises questions with regards to private property rights. The “Declaration of Rights” provides that “the State’s natural resources are the common property of every person.” The definition of “natural resources” is broad in that it includes more than public lands, it also includes the air, plants, animal life and climate located within Maryland. This language suggests that the public will have an ownership interest in the natural resources on another’s property, such as trees or minerals. Under this interpretation, any person can object to a property owner removing the trees from his property, or a holder of mineral rights mining the minerals, as any person will have a property interest in those natural resources. By establishing that every person has a property interest in natural resources, including those resources on private property, Senate Bill 151 may run afoul of the Fifth Amendments Takings Clause, which prohibits the taking of private property for a public purpose without payment of just compensation.

For the reasons set forth above, Columbia Gas **opposes Senate Bill 151** and requests an unfavorable report.

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