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North Country Rep.'s Landfill Siting Bill Undergoes Amendment

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A landfill siting bill sponsored by a local state representative that was retained from New Hampshire's 2023 legislative session was recently amended and could be on the governor's desk in early 2024. Here, silent protestors gather outside of the Casella Waste Systems landfill in Bethlehem on Oct. 7. (Photo by Robert Blechl)

A landfill siting bill sponsored for the 2023 legislative session by a local state representative is moving forward into next year after being retained several months ago and then recently amended by a New Hampshire House of Representatives committee in late October.

Based on a similar law in Maine, House Bill 602, put forth by state Rep. Matt Simon, R-Littleton, seeks to protect water quality from contaminants, such as PFAS or leachate, that might leak from a landfill.

The bill seeks a standard by which to site landfills, such as allowing them on solid soil, such as bedrock or clay, and prohibiting their siting on over-porous soil, such as gravel or soil, where the groundwater flows more quickly.

As submitted, HB 602 proposes a 5-year distance of travel (or fewer years if improvements are made to a landfill) that is calculated on the maximum seepage velocity measured in units of feet per year that determines how fast the groundwater flows between a landfill and a surface water, with the idea that a problem can be discovered and remediated before it reaches a lake, river, or other waterway.

In a 13-6 vote, the House Environment and Agriculture Committee agreed to an amendment that bifurcates the application process to include a preliminary application phase to determine if a site is indeed appropriate before a full application and the process that it entails can begin.

While some landfill bills in recent years have met with defeat, Simon, on Friday, said he's not surprised that HB 602 is still moving forward.

"I think the committee always had it in mind to hold onto that one until they saw what happened to the legislation last year just in case they wanted to take a different direction this year," he said. "They always like to have some flexibility. I think it worked out well. It seems like it has pretty broad support in the committee. We'll see what happens everywhere else. I think we have some support in the Senate as well."

Because of what could be considered a substantial amendment to HB 602, the bill will likely have to go back to a public hearing, he said.

"What the amendment is basically doing is adding a preliminary survey of a piece of property to determine whether or not it's even going to be suitable to site a landfill," said Simon. "In the end, what we're hoping is that it will certainly save the state money and will certainly save the applicant money. Before they get into this huge process of doing the initial application, they can find out whether or not the piece is even going to be suitable. The hope is that it will streamline the process and also expose property that isn't well suited to a landfill early on and save the applicant a bunch of money."

And while the original bill had more than a dozen numerical criteria, the current version removes them and gives the New Hampshire Department of Environmental Services more siting discretion based on public input.

Because HB 602 was retained in the 2023 session, it will be expedited before most of the 2024 legislation and go to a House vote in the first few days of January before moving to the Senate.

"If the Senate agrees to it, you could see it on the governor's desk much sooner than the other bills," said Simon.

The amendment in the House committee was proposed by state Rep. Kelley Potenza, R-Rochester, who has become a vocal critic of Casella Waste Systems, which proposes a new commercial landfill by Forest Lake and the state park in Dalton, at a site where some residents in the North Country and beyond say is unsuitable because of porous soil, fast-moving groundwater, and the nearby Ammonoosuc River.

The company is looking for a new location in preparation for the closure of its Bethlehem landfill, which is expected to reach capacity after 2026.

While Simon is not prime sponsor of any landfill-related legislation for 2024, he will likely be co-sponsor of a bill being prime-sponsored by state Rep. David Rochefort, R-Littleton, who seeks to place a moratorium on the permitting of new landfills until after 2031.

That time frame is in line with a determination by the New Hampshire Department of Environmental Services, which, in its 2020-2021 solid waste report, concluded that there won't be a capacity shortfall in New Hampshire until at least 2034.

"I think that's what's really important for people to understand — the state of New Hampshire doesn't have a capacity issue," said Simon. "Casella has a capacity issue. They are looking for a new location to bring their garbage for their customers. I understand for them that's a really big deal, but it's not that we're out of capacity, the people. A specific company is looking for extended capacity and those are two very different things."

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