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North Country Lawmakers, Residents Take Fight For Landfill Siting Bill To Senate

Robert Blechl rblechl@caledonian-record.com Staff Writer
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State Rep. David Rochefort, R-Littleton, gave testimony on Tuesday before a New Hampshire Senate committee in support landfill-groundwater setback siting bill.

Local lawmakers and residents are keeping up their fight for a landfill siting bill after it passed the New Hampshire House of Representatives in a 224-155 vote in March and is now being considered by the Senate.

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House Bill 56, a site-specific bill that seeks a 5-year setback or distance of travel between a new landfill and surface water based on maximum seepage velocity measured in units of feet per year that determine how fast the groundwater flows between the landfill and a perennial lake, river or other surface water, went to an hour-long hearing on Tuesday before the Senate Energy and Natural Resources Committee.

Supporters argue the method is science-based, is used in other states, and takes into account that all landfills eventually leak.

Under the amended version of the bill, the New Hampshire Department of Environmental Services would not be able to issue a license to any facility with a footprint that overlies a significant sand and gravel aquifer.

“The calculation noted within the legislation simply gives us time in the event of a breach or a landfill spill,” said state Rep. Megan Murray, D-Amherst, prime sponsor of HB 56. “Time is critical when considering leachate.”

Leachate is a “toxic soup of sorts” that, if it were to breach a landfill or landfill liner, could contaminate groundwater and aquifer sources, said Murray, who added that HB 56 seeks to protect the state’s natural resources.

“We have to start somewhere,” she said.

About half of the 18 people giving testimony before the committee favored HB 56, and half opposed it.

Kirsten Koch, director of public policy for the New Hampshire Business and Industry Association, said the BIA strongly opposes the bill, which she argued would increase costs for municipalities and employers who would have to send their waste out of state.

“We find that HB 56 exemplifies a ‘not in my backyard’ mentality toward industry and would weaken New Hampshire’s climate for business,” she said.

Also testifying in opposition was Mark Sanborn, assistant commissioner for DES, and Mike Wimsatt, DES’s Solid Waste Bureau director, who said HB 56 ignores groundwater variability at a site, would measure it using the highest speed, and is over-restrictive.

Like Koch, they encouraged the committee to support SB 61, which seeks to enable DES to adopt rules relative to surface water setbacks for landfills.

Other HB 56 opponents include those related to the commercial solid waste industry, including Bob Grillo, a principal at CMA Engineers, which has been enlisted by Casella Waste Systems during expansion phases of Casella's current landfill in Bethlehem.

Casella, which in 2021 had a 154,000-gallon leachate spill its landfill in Bethlehem, proposes a new landfill beside Forest Lake in Dalton, a plan that in large part is the catalyst for HB 56 and the bill's previous iterations. Opponents of the Dalton location say a landfill would be above porous sand and gravel and fast-moving groundwater.

Grillo said his research indicates that landfill lining material will last 500 years in the ground without deterioration and the second liner in a double-liner system would capture what would get through the first.

Not all were convinced, including Nora Bosworth, a northern New England staff attorney for the Conservation Law Foundation, who called HB 56 "a common sense and necessary measure" to ensure that new landfills are sited in appropriate locations and will not threaten surface waters, groundwater, and, ultimately, residents.

"Site-specific setbacks are needed because landfill liner systems have limited lifespans and can eventually break down and leak, and when they leak, they can release toxic chemicals, including PFAS, into nearby groundwaters," she said. "PFAS are toxic compounds called 'forever chemicals' because they never fully break down in either the environment or our bodies."

HB 56 would protect New Hampshire in two ways, the first by directing landfill development siting to suitable locations where groundwater does not move quickly and interact with nearby water bodies, and the second, by ensuring there is enough time to assess and remediate any potential contamination before it reaches a water body, said Bosworth.

State Sen. Debra Altschiller, D-Stratham, who serves on the committee, said her district has the Coakley landfill, which, after it began leaching out, prompted much discussion in the Legislature about lined landfills versus unlined landfills.

"There was a turn of phrase that any landfill, it's not a question if a landfill lined or not will leak, but when," said Altschiller.

She asked about the average lifespan of a lined landfill.

“There is a lot of variability to lined landfill systems, but I’ve read numerous pieces of literature that state the lifespans of lined systems are limited, even when they’re doubled lined systems, regardless of the materials that are currently used,” said Bosworth. “And the toxicity of the waste and the leachate, once that seeps out, can last centuries and even millennia. So we can’t say after 30 years, the landfill is capped and lined, and we don’t have to worry about it anymore. The risks of the chemicals that can seep out of the leachate can last into perpetuity.”

State Rep. Peter Bixby, D-Dover, a supporter of HB 56, said bill drafters worked with Waste Management, one of the major waste companies in New Hampshire, to ensure nothing in the bill would preclude the expansion of existing landfills.

“Waste Management was pleased with the grandfathering language we put in, so there is no threat in this bill to any of the currently operating landfills,” he said.

While the 5-year setback excludes siting anything above a sand and gravel aquifer, it leaves more than 80 percent of the land area in New Hampshire as still potentially available for a new landfill,” said Bixby.

“Most of the soil in New Hampshire is bedrock base with clay on top of it, and that is good landfill siting territory,” he said. “It would certainly be possible to put in an additional landfill within the restrictions of this bill.”

Also in support is state Rep. David Rochefort, R-Littleton.

“This bill is a common sense approach to siting landfills, which in our community would go a long way toward protecting the investment we have made in our community,” he said. “The town of Littleton has invested greatly in our river district. I know other communities in the state are developing their river districts.”

Rochefort said he is among those who believe the current “arbitrary setback” of 200 feet from any landfill and a water body is inadequate.

HB 56 pairs well with SB 61 to protect the communities that have made significant investments by cleaning up and bringing back waterfronts and water areas previously polluted by an industrial era past, he said.

HB 56 supporter Wayne Morrison, property owner of a Forest Lake family camp in Whitefield and president of the North Country Alliance for Balanced Change, called the current 200-foot setback “unprotective and dangerous.”

“The current regulation has been in place for over 30 years, and in all that time, despite advances in technology and science and our growing understanding of the health risks from water contamination, our criteria for siting a landfill has remained untouched,” he said. “In 1991, no one knew about the dangers of PFAS and many of the other toxic leachate chemicals that are abundantly found in landfills. But we do today. We cannot go back in time, but we can take decisive action to better protect New Hampshire’s future today. Now, in fact, is the right time to get this process right. There are hardly no applications in front of DES for a new landfill and they recently published solid waste biennial report shows that we have plenty of capacity to 2034 and, in fact, well beyond.”

HB 56 does not ban landfills or restrict their number or who operates them, but ensures they are located safely, said Morrison.

“We should never forget that with the best technologies available and the best-intentioned landfill operators, accidents still occur,” he said. “Leachate spills, people make mistakes, switches and valves fail, double-lined material deteriorates, and leaks eventually happen. When they do, the only thing protecting our rivers, lakes, wetlands, and drinking water supplies from leachate chemicals is the site-specific criteria you have before you today. I ask you to support HB 56, just as a large bipartisan majority in the House has.”

State Rep. Rosemarie Young, D-Merrimack, said she attended Tuesday’s hearing because the town of Merrimack suffered PFAS contamination in groundwater from industrial contamination. Since then, she said, the state has learned much about PFAS.

“It’s in so many consumer products that end up in landfills, and the leachate from those landfills will contain PFAS,” said Rung. “Contrary to previous testimony about the cost that [HB 56] would incur, I’d like you to consider the cost of having to clean up PFAS in groundwater or surface water. The ratepayers in Merrimack have spent millions and millions of dollars and years to filter our water.”

Robert Blechl