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## North Country Residents Turn Out For Landfill Bill Hearing

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Sarah Doucette, of Whitefield, was among several North Country residents turning out to the statehouse on Tuesday to give testimony to the House Environment and Agriculture Committee on a landfill siting bill.

After passing the New Hampshire Senate in March, two landfill-related bills went to public hearings on Tuesday before the New Hampshire House of Representatives Environment and Agriculture Committee.

Senate Bill 159, addressing the issue of imported waste that has elicited concerns from several North Country residents, seeks to establish a committee to study unlimited service area perm landfills and out-of-state waste coming into New Hampshire.

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Senate Bill 61, supported by the solid waste industry and the New Hampshire Department of Environmental Services and opposed in its current form by some residents who turned out to the statehouse in Concord to give testimony, seeks to require DES to adopt rules relative to site-specific surface water setbacks for landfills and make a \$150,000 appropriation to DES for hiring an independent consultant to undertake hydro-geologic and other studies.

## SB 159

“We are seeing New Hampshire become a dumping ground for trash from other states,” said state Sen. Donovan Fenton, D-Keene, the prime sponsor of SB 159. “A report from the environment department published in November shows that more than 45 percent of the trash coming to our landfills comes from out of state. Massachusetts has not built a landfill in 30 years because it seems like their solid waste plan is to dump it in New Hampshire. Maine passed legislation prohibiting the disposal of out-of-state waste in the state’s landfill. Vermont has also established aggressive standards for what can be disposed of in its landfills.”

Mike Wimsatt, director of DES’s Waste Management Division, said the 45-percent figure is accurate and New Hampshire exports less than 10 percent of its waste.

Unlimited service area landfills can take waste from anywhere.

Limited service area landfills, which include municipal facilities, take waste from a smaller area, an example being the facility in the city of Nashua, which is essentially limited to waste within that city’s limits.

Private facilities typically ask for unlimited service area landfills, said Wimsatt.

New Hampshire recently updated its solid waste management plan with goals to reduce its in-state waste and trash toxicity, but it fails to address the problem of nearly half of waste coming in from out of state, said Fenton.

Although previous legislation authorized a solid waste working group in New Hampshire, Fenton said the issue of imported trash is not being addressed while other states are phasing out building landfills and New Hampshire is debating the possibility of more landfills.

State Rep. Nicholas Germana, D-Keene, asked if there's a benefit to pursuing the goals of SB 159 under a new study committee, which would be made up of members of the New Hampshire Legislature, as opposed to the solid waste working group, which includes non-lawmaker members.

"The whole purpose of this is how long can we wait?" said Fenton. "We're at 45 percent out of state. Is it going to go up to 50 or 55 percent? Where does it end? ... It's really to get something out by, hopefully, the next legislative session."

Fenton also fielded questions about the Interstate Commerce Clause and if any new rules would violate it.

"Given that some of these landfills are made to be profitable, and the permitting probably includes ways to be profitable, including taking trash from out of state, what would you like to see the committee conclude regarding commerce?" asked state Rep. Molly Howard, D-Hancock.

"Regarding commerce, I think we all want a cleaner New Hampshire," said Fenton. "I think if you're not upset at 45 percent of our trash coming from out of state, that is an issue. We are not trying to hamper business by any means, but we're also not in the business of becoming the trash state to accept other people's waste."

Germana said there's a question about landfill capacity and increased costs for New Hampshire if landfills closer to municipalities are being filled with nearly half of the imported waste, and the result is local trash having to be transported farther away, with tipping fees and increased costs because local landfills can't accommodate it.

"In the long run, it's going to cost the citizens of New Hampshire a lot more money and maybe the quality of our state, our air," said Fenton. "We're also seeing garbage trucks literally driving up from Massachusetts ... and dumping their trash. Those trucks don't get great gas mileage. It's cheaper for them to do that than it is to figure out the problems."

State Rep. Linda Haskins, D-Exeter, asked Fenton if he would like to see the permitting of New Hampshire unlimited service area landfills be more restrictive.

That's why there would be a study committee, said Fenton.

“I believe we can find a solution in here somewhere,” he said. “I think we’re all in agreement that we want to do something here dealing with out-of-state trash. If that’s in a permitting process, if that’s new language in terms of how we approach solid waste or out-of-state waste then I think there’s a ton of options I and would hope that a study committee can figure that out.”

## SB 61

Drawing nearly three hours of testimony and, at times, the most heated discussion was SB 61, which would give DES a deadline of two years to complete the studies and adopt the landfill-to-surface water setback rules.

Some House committee members who voiced concerns about SB 61 were supporters of HB 56, which sought a 5-year setback or distance of travel between any new landfill and any 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 surface water.

The intent of HB 56, which was killed by the Senate on April 14, was to allow enough time to identify a problem and remediate it before contaminants from a landfill spill or breach reach surface or ground waters.

Under HB 56, DES would not have been able to issue a permit to any facility with a footprint that overlies a significant sand and gravel aquifer.

Concerns voiced Tuesday about SB 61 include how the state would avoid a conflict of interest in the hiring of a consultant and if that consultant could remain independent, as well as the fact that, under the current bill, if DES does not adopt rules within 24 months DES shall apply its existing rules in determining the required setback to any application being held in abeyance when the 24-month period expires and approve the application if it complies with the current rules.

That current rule includes the 200-foot setback, which some House committee members and residents said is inadequate in today’s world, where more is known about contaminants, such as PFAS contamination, and is not enough to protect water bodies and drinking water.

They suggested that the two-year deadline be struck from the bill.

Wimsatt said he’s confident that the rules could be adopted before the deadline.

Assistant DES Commissioner Mark Sanborn took some fire from committee members when he said SB 61 would pass as is and be signed by the governor, but any amendment or alteration to it would derail it from becoming law.

“It’s frustrating to have it suggested that the bill we’re presented with is a take it or leave it option,” said Germana. “That’s not how the legislative process is intended to work ... You guys do a great job and I think it will be done in 24 months. That’s another reason why I don’t think we need to have this statement that it will revert to the old rules.”

Nancy Morrison, a Whitefield property owner, said SB 61 would be a much better bill if it is amended so DES cannot accept and process new landfill siting permits during the two-year study period.

Whitefield resident Sarah Doucette said several thousand residents during the last four years have called on the New Hampshire Legislature and the governor to implement responsible siting of landfills to protect the environment, families, and communities.

An amendment to SB 61 can be put in place to better protect New Hampshire waters and public health, she said.

“Anything short of that will leave the state with an empty process and illegitimate outcome and yet another failed attempt at water protection,” said Doucette. “Most important, your work can make certain New Hampshire never again uses the existing and frightening 200-foot setback rule as a buffer between landfills and perennial water bodies.”

She said the process would most likely require a timeline that cannot be set in advance at 24 months.

State Rep. Peter Bixby, D-Dover, said he’s concerned that if the new setback rules are not adopted within 24 months, the state will return to the current rules, with which it has had problems.

State Rep. Sherry Dutzy, D-Nashua, said her concern is that the state had HB 56, and with what it already knows about groundwater flows, is “kicking the can down the road for another two years.”

Of those who watched the hearing online, SB 61 in its current form had 47 people in favor and 81 opposed.

State Rep. Judy Aron, R-South Acworth, who chairs the House Environment and Agriculture Committee, said the plan is to bring the two bills back to a committee discussion on May 9, discuss any amendments that would be given to committee members in advance, and then vote to recommend or not recommend the bills.

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