

[https://www.laconiadailysun.com/news/local/thursday-veto-override-on-landfill-setbacks-remains-questionable/article\\_919f32e2-346e-11ed-9235-0f2a739b6ad0.html](https://www.laconiadailysun.com/news/local/thursday-veto-override-on-landfill-setbacks-remains-questionable/article_919f32e2-346e-11ed-9235-0f2a739b6ad0.html)

## Thursday veto override on landfill setbacks remains questionable

By Thomas P. Caldwell, for The Laconia Daily Sun

Sep 14, 2022

CONCORD — Rep. Edith Tucker (D-Randolph), the prime sponsor of House Bill 1454, is relatively confident the New Hampshire House will override Gov. Chris Sununu's veto of the bipartisan legislation, which require new landfills to meet scientifically determined setbacks from major bodies of water. The House is set to vote on Thursday, but the Senate remains another story.

Sen. James Gray (R-Concord), who serves on the Solid Waste Working Group that is assisting the Department of Environmental Services in updating its Solid Waste Management Plan, voted against Tucker's bill, and he has not changed his mind.

In a telephone interview on Wednesday, Gray said NH regulations governing landfills already make sure they are safe without HB 1454.

The bill, fashioned on a similar law enacted in Maine, would replace the Granite State's current 200-foot setback requirement for new solid waste landfills with a requirement for hydrological studies of the soil and bedrock below to make sure any potential spill would take at least five years to reach a nearby river or tributary. That would give the state and landfill operators time to recognize the problem and begin remediation.

Gray said the Maine regulations have provisions for reducing the setback distance through the use of liners and other measures.

"In Maine, the way I read this statute, people get back to a 300-foot limit," Gray said, whereas proponents of HB 1454 rely solely on the flow rate of groundwater. "All they say is five years, five years, five years. Maine law says that if you put in this and you put in that ... each one of those things may reduce the amount of time [so] you can reduce those years."

Sununu, in his veto message, claimed that the bill would curtail landfill development, pointing that many of the state's existing landfills would not have been allowed had HB 1454 been in p

Gray said that regulations put in place since those landfills were created would accomplish the same thing in preventing poor siting. However, NH allows a landfill operator to pump off contaminants, or leachate, and figure out what is going on, and what may have happened to the liner, Gray said.

“We have chemicals right now that, if you have a pipe that leaks, you can put a brand new liner inside that pipe while it’s still under the ground. So all these people that say liners leak, well, can you repair the liner? Can you keep pumping the leachate off such that the leachate level never gets to an area where there is a hole in the liner, and can that hole be fixed?”

Tucker acknowledged that Maine’s regulations offer some additional flexibility.

“The regulations that Sen. Gray speaks of in Maine have to do [with] if landfill developers made additional mitigation measures, then they could change some lines and rules, so it was a give-some, take-some kind of arrangement to encourage some really top-notch behavior.”

She said she is not surprised that Gray has not changed his mind.

“I think it’s understandable that people gave thought to it at the time — it was a pretty big bill,” Tucker said.

She credited former senator Erin Hennessey, who co-sponsored the bill, with “giving it her all” during the Senate debate.

“I thought she did a wonderful job arguing it,” she said. “She got a two-thirds vote.”

Hennessey has since taken a job as deputy secretary of state, and Tucker said that, without her vote in the Senate, an override of the governor’s veto could be one vote short. It takes 16 votes to reach two-thirds in the Senate.

“We’ll just have to see,” Tucker said.

“The dire news on PFAS over the summer makes it far more clear that preventing water from becoming polluted is a very, very important statewide issue,” Tucker said. “Climate change is also making drought and water shortages more normal, further highlighting the importance of preserving fresh, drinkable water.”

HB 1454 is just one of the measures Tucker feels is important.

“We need stronger regulations,” she said. “Somehow, over time, we’ve fallen behind. I think some of it is because committees like mine, Ways and Means, has cut [DES] back over the years on what their budgets can be. We’ve had some financial crises that we’ve had to weather, and they have hired some more people at DES, but it’ll take them a while to ramp up and come up with suggestions.

“Meanwhile, I think it’s pretty clear that we have a problem in New Hampshire.”

As to her predictions on overriding Sununu’s veto, “I don’t know what’s going to happen. I haven’t been able to accurately count the noses. I just don’t think people want to commit themselves until they hear others, but I’m not totally discouraged.”