

## Back Before Lawmakers

### Legislature Again Tries To Control Landfill Siting



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Rep. Kelley Potenza testifies in favor of HB 707 which would require site-specific criteria for the siting of new landfills.

(Screenshot)

CONCORD — The House Environmental and Agriculture Committee heard testimony on House Bill 707 that was a scathing indictment of the New Hampshire Department of Environmental Services for ignoring legislative intent as it updated the rules governing solid waste landfills in the state.

Representative Kelley Potenza, the lead sponsor the bill, opened the testimony on February 4 by saying, “The bills that have been filed over the last five to six years clearly state what the legislature has been trying to do,” yet the draft rules developed by the DES in March 2024 were “the weakest in the world. It allowed pollution to move at three feet per day, whereas most states and countries restrict it to a couple of feet per year. But then, long after public comments ended, the DES added a gravely dangerous sentence to the rules, which eliminates even that weakest-in-the-world test, and allows a landfill to be built anywhere in the state, as long as there’s 24 inches of imported dirt under it. That sentence explicitly allows the dirt to transmit pollution at three inches per day, which of course, is eight days to go through 24 inches of soil.”

HB 707 has 14 co-sponsors, seven from each party. The legislative consensus over the past few years has been that solid waste permitting should be site-specific, taking into account the unique characteristics of the soil, proximity to bodies of water, and its impact on the environment. Public testimony has overwhelmingly supported strict safeguards.

Potenza’s bill calls for a setback from a water body that “should be sufficient to prevent groundwater contaminated by a leak, spill, or other failure from reaching the waterbody before remedial action can be implemented. A period of 5 years should be sufficient to detect and map a failure, assess appropriate remediation, meet engineering and regulatory requirements, and initiate the remedy.”

It was opposition to Casella Waste Systems’ proposed landfill near Forest Lake State Park in Dalton that brought the matter to lawmakers’ attention. After both chambers passed a bill to strengthen environmental protections to prevent landfill pollution, former governor Chris Sununu vetoed the bill. Governor Kelly Ayotte has taken the opposite stance.

“When we talk about solid waste, the governor has strongly signaled her opposition to the Dalton project,” Potenza said. “But the rules, and this is the most important thing, it’s not about one project right now. The rules will allow a landfill to be put pretty much anywhere. So if the rules are not rewritten, some company could come in, come to Nashua, could come to Keene, Concord, wherever, and find another terrible tract of land and claim that the rules entitle them to build there.”

Potenza said the only person who had sent opposing testimony “is a paid contractor for the industry that is working on the only permit that is in DES’ office.”