

[https://www.caledonianrecord.com/news/local/landfill-setback-bill-passes-n-h-senate-following-compromise/article\\_3b5bc3e6-5abf-56cc-8f20-894007c5d14b.html](https://www.caledonianrecord.com/news/local/landfill-setback-bill-passes-n-h-senate-following-compromise/article_3b5bc3e6-5abf-56cc-8f20-894007c5d14b.html)

FEATURED

## Landfill Setback Bill Passes N.H. Senate Following Compromise

Katherine Fiegenbaum [fiegenbaumk@caledonian-record.com](mailto:fiegenbaumk@caledonian-record.com) Staff Writer

May 5, 2022



Sen. Erin Hennessey, R-Littleton, spoke in support of HB 1454 in front of the New Hampshire Senate on Thursday, May 5.

House Bill 1454 — which adds a groundwater hydrology-based setback for new landfills — took a step forward on Thursday, passing the New Hampshire Senate with a vote of 16 to 8. The move followed the addition of a “compromise” amendment proposed by Senator Erin Hennessey, R-Littleton.

“I am very thankful to all of my colleagues who supported it,” Hennessey said on Thursday evening. “It was a very long process and I’m very thankful to all the residents and Representative [Edith] Tucker and the scientist that helped out, and to the additional legislators that helped out in trying to

get something that was scientifically-based that would pass both bodies.”

Existing state rules, established in 1991, only require that a landfill be located at least 200 feet from an existing body of water. HB 1454 would add another rule: the setback distance from the water body must be great enough that any contaminated groundwater from a landfill leak or spill would not reach the water body within five years.

“In appropriate locations where the soil is largely made of clay and the bedrock is solid, groundwater can move away as slowly as one foot per year,” Hennessey explained to the Senate on Thursday morning. “In inappropriate locations where the soil is made up of sand and gravel and/or bedrock that’s fractured, groundwater can move as quickly as 20 feet per day. [The Department of Environmental Services] has never been required to consider whether, at a proposed landfill site, polluted groundwater will trickle away towards lakes, rivers and wells or whether it will hurtle towards them at high velocity.”

Hennessey explained that landfill operators are only required to test groundwater once every four to 12 months, making the legislation even more important.

“HB 1454 replaces this one-size-fits-all, 200-foot setback with a site-specific time-to-travel setback that many states use and the federal Environmental Protection Agency has recommended for more than 30 years,” she told those gathered.

Hennessey noted that similar rules in place in neighboring states require a larger time-to-travel setback: Maine requires six years while New Jersey requires five to 12.

“If this bill passes, New Hampshire would still have some of the most lenient requirements in our area,” she said, adding that the same tests are already done during the application process, but they would be required up-front and with additional seepage velocity calculations if the bill passes and is signed into law.

“This due diligence will save the state time and money,” she said. “Testing the soil on the first day is akin to making sure you do not place a fireworks factory next to a match factory.”

Last year, the New Hampshire legislature attempted to pass HB 177, which would have prohibited a new landfill within two miles of any state park.

“I’m sure all you remember HB 177 from last year from the hundreds if not thousands of emails we received on the two-mile setback,” Hennessey explained to the Senate. “Fourteen of this body voted against the legislation and many of these 14 asked me to come back with a scientific approach to determining what a safe setback is. After months of work with legislators, residents and scientific experts, HB 1454 is what you asked me to come back with.”

Hennessey’s amendment to the bill allows some leeway with the five-year rule if specific safeguards are added to the landfill.

“The way the bill came over from the House, if [a landfill site] has less than a five-year seepage velocity, then their application would fail,” she explained on Thursday evening. “The amendment we passed today allows the department to develop a list of safety measures where, if an applicant were to do certain things to prevent a leak from contaminating groundwater in addition to what they’re already required to do — for example: put in a third liner, or set up additional monitoring pits — then they could add additional years to the rate of flow. [...] So if they calculate it at three years, and they add additional safety precautions that the department would spell out, then they could add additional years to that three and, ultimately, build in that location — if approved.”

“This incentivizes operators to embrace technology and better landfill design in order to be sited as little as two years away from surface water,” Hennessey told the Senate. “In support of this amendment is the Conservation Law Foundation, the Sierra Club, the Society for Protection of New Hampshire Forests and N.C.A.B.”

Hennessey stressed to the Senate that the bill does not ban new landfills nor does it stop the expansion of current landfills, many of which would pass the five-year test.

Since the bill passed by the Senate on Thursday is different than the version passed by the N.H. House of Representatives in late March, Hennessey explained that HB 1454 now goes back to the House for a decision.

If the House agrees with the amendment, the bill will be sent to Governor Sununu for his signature. If the House does not agree, they can request a Committee of Conference between the two bodies. If a consensus can not be reached on the bill, it will fail.

As far as how the bill’s possible approval would affect the proposed landfill that would be sited near Forest Lake State Park in Dalton, Hennessey said she was unable to get clarification on what would happen to the current application.

During the session, multiple members of the Senate noted that they had felt bullied and threatened about HB 1454.

“There was a lot of emotion involved in this bill,” Hennessey said.

“A lot of stuff happened that shouldn’t have happened and that I don’t think any of us condone in the Senate,” she said, referring to social media posts aimed at specific senators in opposition to the bill.

“These are things that should not happen to any legislator, whether in the statehouse or online.”

---

**Katherine Fiegenbaum**

Reporter