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## N.H. Senate Kills Landfill Bills, Amends Casino Bill

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A landfill siting bill sponsored by a local state representative that was retained from New Hampshire's 2023 legislative session was recently amended and could be on the governor's desk in early 2024. Here, silent protestors gather outside of the Casella Waste Systems landfill in Bethlehem on Oct. 7. (Photo by Robert Blechl)

After handily passing the New Hampshire House of Representatives, a bill that sought to place a 4-year moratorium on new landfill permits and another to restrict the amount of out-of-state waste imported into the Granite State were killed in the Senate on Wednesday.

In the same session, the Senate approved an amendment to a bill that would give municipalities a vote on whether they want a casino in their community.

## Landfill Bills

In recent years, several pieces of landfill-related legislation would pass the full House only to be killed in the Senate.

2024 was no exception.

House Bill 1620, sponsored by state Rep. David Rochefort, R-Littleton, and state Rep. Linda Massimilla, D-Littleton, sought to place a moratorium through 2028 on granting new landfill permits.

HB 1632, also sponsored by Rochefort and co-sponsored by Massimilla, sought to limit to 15 percent the amount of out-of-state trash that future landfills can take.

Nearly 50 percent of waste in New Hampshire is currently generated out of state.

In votes of 3-1 each, both bills were recommended inexpedient to legislate by the Senate Energy and Natural Resources Committee.

Speaking in favor of the committee's recommendation to find HB 1620 inexpedient to legislate was state Sen. Howard Pearl, R-Loudon, a committee member who said stakeholders during hearings spoke of "long-term complications, including the potential for court challenges," and the New Hampshire Department of Environmental Services raised concerns about economic impacts and "regulatory complexities" if HB 1620 were to be made law.

Three senators spoke against the committee's ITL recommendation and in favor of passing HB 1620.

State Sen. Donovan Fenton, D-Keene, said the permit suspension until 2028 is a reasonable change that would allow the state the opportunity to gather information and make informed decisions and to thoughtfully work through its 10-year update surrounding landfill permitting before proceeding with the approval of another landfill.

"Getting landfill permitting right is something we as a state must prioritize," he said. "Every day we find ourselves producing solid waste that must then go somewhere. Our landfills are a vital part of our life and economy, but they are not without their dangers or negative impacts to our state."

Long-term impacts include waste and soil contamination and impacts to human health and tourism, said Fenton.

"Once a site becomes a landfill, it will remain that way forever," he said. "It is vital that we act in a proactive manner when it comes to our waste management and not simply a passive and reactive one ... We heard testimony that the state has enough capacity to manage our solid waste for the next ten years without expanding the number of landfill permits the state issues."

State Sen. Debra Altschiller, D-Stratham, also rose in opposition to the ITL recommendation, saying that 47 percent of trash in New Hampshire comes from out of state while New Hampshire exports just 3 to 5 percent.

"When a community is evaluating whether they are going to have a landfill built, they have to ask the question not if this landfill will leak, but when it will leak, because they all do," she said. "We don't have technology that prevents leakage from landfills and we don't need in New Hampshire a landfill until 2030 ... Other states around us have already begun to limit the amount of trash that comes into their state, but we don't. So we are becoming the trash magnet.... I don't think that's what we want."

Also rising against the ITL recommendation was state Sen. David Watters, D-Dover, who said changes are coming to the state's waste management during the next few years, and the timing is right to take a pause.

In a voice vote, the Senate killed HB 1620

Speaking in support of killing HB 1632 was state Sen. Kevin Avar, R-Nashua, who said while the 15-percent out-of-waste cap is commendable in addressing concerns, bill opponents expressed concerns about legal challenges, particularly as it relates to the Interstate Commerce Clause, as well as the bill's impact on waste management costs.

But as other states around New Hampshire clamp down on the amount of out-of-state trash that crosses their borders, it opens up the Granite State to becoming "the dumping ground in New England," argued Fenton.

In addition to restricting out-of-state waste, neighboring states are refusing to take hazardous materials, said Fenton.

"As a result, these states are sending the worst of the worst to New Hampshire," he said.

Watters called HB 1632 a reasonable bill.

"Aren't we at some point going to have to turn the spigot down or turn the spigot off?" he said. "We're getting flooded. A million tons of waste every year ... Can't we take some control over our borders ... some control over what's coming into the state? And who has to pay for that? We do. Look at the tipping fees. If you have the bag and tag in your town it used to be 90 cents. Now, it's like \$4.50 a bag. Why? Because we're having to pay for the capacity to handle the million tons from out of state every year ... If we turn the spigot down, it might mean we may never have to build a landfill in this state because we can do some source reduction. Let's take charge for our taxpayers."

Watters also said the state could have to spend money on cleaning up the effluence from plastics and PFAS "cooking in landfills."

Regarding the Commerce Clause, he said the bill finds a way.

"It's basically what other states are doing successfully," said Watters. "They're not running into lawsuits over the Commerce Clause. There's been some legal advice on it. The constitutional issue is not there. I think there's some good reason to pass this now."

In a voice vote, the Senate killed HB 1632.

Following Wednesday's votes, local lawmakers and proponents of the bills are exploring possible paths forward and if the legislation can be revived in some fashion.

"Disappointed to once again see the NH Senate prevent any measures to curb out-of-state waste or take the steps necessary to properly and safely site new landfills," Tom Tower, a member of the North Country Alliance for Balanced Change, said in a statement on Thursday." The NH Senate has in essence endorsed our state's position as a regional dumping ground. Next time you see a large garbage truck bringing hazardous waste up I-93, make sure you thank your senator."

### Casino Bill

Speaking on behalf of HB 1223, the local option bill that would give towns an up-or-down vote on whether they want a casino in their community, was state Sen. Timothy Lang, R-Sanbornton, who proposed the floor amendment.

The bill was recommended to pass in a 4-1 vote by the Senate Ways and Means Committee, which he chairs.

"This bill stemmed from an issue that happened in the town of Littleton, where they didn't want to have games of chance and passed an ordinance, only to find they didn't have the authority to pass an ordinance because we haven't granted that authority," said Lang.

He said the original bill inverted it and sought to automatically prohibit casino operators by instead making them opt in.

"We are doing it the other way with the floor amendment and are saying the state is open for business unless the town chooses to close it and can vote to close it," said Lang. "This has the state always open the way it is right now, but allows municipalities like Littleton to be able to vote to prohibit games of chance if their community doesn't want it."

The full Senate voted to support the amendment and send the bill back to the House Municipal and County Government Committee.

Leading the local effort for HB 1223 is Littleton resident Debi Warner, who, after Wednesday's Senate vote, said the amendment doesn't damage Littleton, but it does change the bill.

She said those complexities will need to be discussed by the stakeholder group.

“The bill will go to a committee of conference in June between the House committee leaders and the Senate ones,” said Warner. “They can change the bill together to match up or accept the Senate changes. If it survives that, it could be signed by the governor or allowed to pass silently into law, or be vetoed. Chances change with each change of details.”

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