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Support and Opposition Aired On Landfill Bill Before Senate Committee

By THOMAS CALDWELL, InDepthNH.org 18 hours ago



Screenshot

Rep. Edith Tucker, D-Randolph, is pictured testifying Tuesday on HB 1454 before the Senate Energy and Natural Resources Committee.

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CONCORD — Supporters of House Bill 1454 argued before the Senate Energy and Natural Resources Committee Tuesday that the legislation is sensible and necessary, while opponents argued that it is unnecessary because the state Department of Environmental Services already protects Granite State waterways from landfill pollution.

HB 1454 would replace the current 200-foot setback requirement for new solid waste landfills with a science-based approach that takes into account the rate at which groundwater can flow to a nearby river or tributary. Based on hydrogeological studies of the soil and bedrock below, a new landfill would have to be sited where polluted water would not reach a major water body for five years, giving the operator and the state time to remediate the problem before it contaminates rivers and lakes.

Prime sponsor Edith Tucker, D-Randolph, said, “Groundwater can move as slowly as one foot per year in soils with a high clay content or in bedrock that’s not full of fractures,” but, “In contrast, groundwater can move as quickly as 50 feet per day in soils high in gravel or

sand content, and in fractured rock.”

“It’s inappropriate and dangerous to build a landfill where groundwater speeds away towards a lake or river,” Tucker said.

Rep. Peter Bixby, D-Dover, the ranking member of the House Environment and Agriculture Committee, offered an amendment that would clarify how to calculate the five-year window.

“In some situations, like Mount Carberry [a landfill in the town of Success], the hydrogeological conditions are such that 200 feet actually would work,” he said. “But in other situations, you might have as little as 21 days before a potential spill reached a body of water within 200 feet. So what we chose to do as a committee is follow the recommendation of doing a time-of-travel distance, so that any potential spill would be able to be recognized and remediation begun.”

Proponents said that, by getting that measurement before starting to develop a landfill, it would save both the landfill developer and the state a lot of time and money.

Two hydrogeologists who represent landfill operators testified against the bill, pointing out that the DES already requires groundwater flow studies as part of the permitting process. Tim White argued that the bill would create “an inconsistent regulatory landscape in the state” because it does not address pollution to nearby wells.

“Why should landfills be restricted based on this approach when no other industry in New Hampshire is restricted in this manner?” White asked.

He also said it would prevent the state from approving new landfills.

“Given the practical considerations for siting a landfill and the numerous setbacks to landfills, there are simply not a large number of properties available in the state on which to site a landfill,” he said.

Another hydrogeologist, Nikki Roy, supported White’s analysis, saying that if HB 1454 had been in place earlier, at least three of the state’s current landfills would not have been permitted. “They would have been sort of kicked out and identified early in the process and would never have been allowed to be developed,” she said. “That would have eliminated almost 50 percent of our current existing landfill capacity.”

She said that, when built properly and permitted correctly, landfills can exist “adjacent to or closer to surface water bodies and other sensitive receptors.”

Brian Gould, an attorney with Cleveland, Waters & Bass, opposed the bill, saying, “No one has told you that there have been releases of leachate from landfill liners to groundwater; no one has indicated that there have been contaminants from lined landfills that have polluted surface water; no one has told you that the existing setback in DES rules has proven ineffective or unworkable. ... Do we really want five years to transpire between the detection and the commencement of remediation, as this bill contemplates?”

Fred Anderson, a Mont Vernon resident who supports the bill, refuted that characterization. “That five years is not about commencing remediation, as Mr. Gould said; it’s to give time to detect, determine and decide on what appropriate engineering would be, apply it, and

finish it. We're here about protecting water and we're here about trying to design some of kind of criteria."

Adam Finkel of Dalton, who helped to draft the bill, pointed out that it set out to address concerns expressed last year about HB 177, which aimed to protect Forest Lake from a proposed landfill in his town. The new bill, he said, is broader and yet site-specific, taking into account the types of soils on the proposed lot. He denied that would prevent any new landfills, saying, "It will be very easy to propose a landfill that meets the criteria of this bill in any region of the state."

Anticipating critics' contention that properly designed landfills are safe, Finkel said, "No promised miracle technology can substitute for sensible siting. All landfills leak and some have a history of emergency spill events."

The bill, he said, "is a simple statement about an obvious incompatible use. ... This bill just clarifies that certain unwise applications should be marked 'return to sender' so they can be improved and then approved."

He said the bill is not designed with just the Dalton landfill in mind. "If the bill happens to be enacted too late to protect Forest Lake and the Ammonoosuc, that would be a tragedy, but the bill is still needed now, so the next company that comes along ... will know that the state won't entertain a ruinous proposal for no good reason."

Sens. Bob Giuda, R-Warren, and James Gray, R-Rochester, questioned the reliability of basing a permit on the rate of groundwater flow within the landfill property, asking about the topography and soils on properties lying between the site and a water body that might potentially be contaminated.

Nancy Morrison of Mont Vernon said, "The science behind this updated bill does not come to you today like a rabbit out of a hat. It's been used successfully for decades to site new landfills in other states, such as Maine. ... Counter to the thought that HB 1454 would make siting a new landfill more difficult, it would make it more safe as well as less costly to the developer, DES, and the state in the long run."

She concluded, "We have too many [Superfund cleanup sites] in New Hampshire now, and one of them is the Coakley landfill in North Hampton, where groundwater, surface water, and wells have been found to be contaminated with PFAS and dioxane. If HB 1454 had been in place when the Coakley landfill was looking for a home, this wouldn't be a Superfund cleanup site today."
