



## Will next year be better for strengthening landfill regulations? Lawmakers revisit failed bills



*Conway public works staffer Tim Shackford gets ready to dump of dirt over the garbage in the city landfill on Wednesday, January 18, 2023. GEOFF FORESTER/Monitor staff, file*

By [SRUTHI GOPALAKRISHNAN](#)

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Lawmakers are revisiting a proposal to impose a temporary ban on new landfills, framing it as a stopgap measure to protect the environment and public health, while the state Department of Environmental Services updates its widely criticized landfill regulations.

Under the proposed moratorium bill, the state would still accept landfill applications but would pause permit approvals, construction, and application reviews until 2030.

State Rep. Nicholas Germana, the bill's primary sponsor, explained that the proposal responds to growing concerns over DES reviewing landfill applications while still in the process of drafting new regulations.

In recent years, New Hampshire residents and lawmakers have raised increasing concerns about the waste industry's influence on DES.

"That's really not a position that the agency should be in. They shouldn't be looking at any applications while they're writing the rules," said Rep. Germana. "It's hard to imagine that it wouldn't have any influence at all."

If the bill passes, Casella Waste Systems' controversial plan to open a landfill near Forest Lake in Dalton, originally targeted for 2027, would face a significant delay until the moratorium is lifted.

Earlier this month, the Joint Legislative Committee on Administrative Rules issued a preliminary objection to the environmental agency's updated regulations, sending them back for further revisions that would be more protective.

A similar moratorium bill, proposing a pause until 2028, was introduced earlier this year but ultimately failed. DES opposed the bill, arguing that a moratorium would strain the state's capacity and potentially harm the economy by disrupting the solid waste market.

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Another landfill legislation proposal that has been resurrected will require the state environmental agency to establish a site-specific setback distance for proposed new landfills

New Hampshire currently mandates a fixed minimum setback distance between landfills and water bodies, regardless of site-specific geology. This approach does not account for how different soil types impact leachate flow—the toxic liquid that can seep from landfills. For example, sandy and gravelly soils allow leachate to travel quickly, while clay soils slow its movement.

State Rep. Kelley Potenza, the primary sponsor said the proposed legislation will codify essential safeguards to protect public health, safety, and the environment by ensuring responsible landfill siting.

“If we are continuing to pollute our spaces, environment and our drinking water and all of that, what’s the New Hampshire advantage?” asked Rep. Potenza. “If nobody can live here, we’re making a place that is just unsafe and unclean for our children and our grandchildren.”

A similar bill passed both the House and Senate in 2022 but was vetoed by Gov. Chris Sununu.

Rep. Potenza is optimistic that the bill might make it through with Governor-elect Kelly Ayotte.

“She’s been fairly good on some of her comments regarding what’s going on up north, in Dalton, Whitefield, Bethlehem, that area where the proposal for the new landfill is,” said Rep. Potenza. “I’m positive for some change. I’m hoping that Governor-elect Ayotte will be

different and move things in a better direction when it comes to this.”

*Other Landfill Bills*

## Leachate Management

As flooding becomes more frequent, lawmakers have proposed a requirement for new landfills to submit detailed plans for managing leachate as part of their permit applications.

Leachate, a toxic soup of hazardous compounds like forever chemicals from landfills, can accumulate in large quantities during heavy rainfall, which landfill facilities must then remove and transport. This bill aims to ensure that new landfills are prepared for such events with clear, transparent plans, preventing any undisclosed trucking of the toxic leachate.

## Landfill's impact

A landfill legislation that would mandate landfill applicants to hire a third party to conduct an assessment on behalf of the host community and abutting communities, evaluating both the potential benefits and risks of the project is also on the table.

“You have to be able to demonstrate we’re going to put this landfill here, and there is a genuine need, and that need will exist for at least half of the lifetime of the permit,” Rep. Germana said.

## Will next year be a better year for landfill legislation?

This year’s legislative session saw only a few bills related to landfills pass. With DES largely refraining from taking a strong stance on landfill legislation, particularly those aimed at limiting out-of-state trash, it did little to advance the conversation.

But DES made comments on why a bill might not work for New Hampshire.

“The most frustrating part to me was that DES would come in and say, we’re taking a position and then they would give a bunch of criticisms,” said Rep. Germana. “It’s disingenuous.”

With Republicans gaining more seats in the House and Senate after the November elections, lawmakers say it’s too early to tell if the new members will support stronger landfill regulations. But, they agree that, regardless of party, it’s a matter of common sense.

Some are concerned about Tara Reardon, a Democrat recently elected to the State Senate, due to her spouse, Jim Bouley, a former Concord mayor and current lobbyist for Casella Waste Systems.

The waste company operates a landfill in Bethlehem and plans to open a new one in Dalton, less than 10 miles away.

While the Legislative Ethics Committee has yet to rule on whether Reardon’s connections pose a conflict of interest, Rep. Potenza is confident that lawmakers and the public will be closely watching the situation.

“I hope that she’s not able to take positions on any of these bills, and I think a lot of us are going to be watching all of the stuff very closely,” said Rep. Potenza. “I don’t care if you have an R or D by your name. We need people that are coming into these committees, that are honest, that are not testifying to line their own pockets.”

*Sruthi Gopalakrishnan can be reached at [sgopalakrishnan@cmonitor.com](mailto:sgopalakrishnan@cmonitor.com)*

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