

# Local Residents Support Renewed Landfill Setbacks Bill



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2 of 2



Dalton resident Jon Swan, founder of Save Forest Lake, turned out for a statehouse hearing on Tuesday to voice support for a renewed landfill setback bill.



A human health-focused bill familiar in the North Country is getting another go-around.

Arguing that the current landfill siting rules in New Hampshire are among the weakest in the world, renewed legislation seeking minimum landfill distance setbacks from water bodies drew statewide and local support at a House of Representatives' Environment and Agriculture Committee hearing on Tuesday.

House Bill 707, co-sponsored by state Rep. David Rochefort, follows an earlier iteration of a setback bill that passed the House and Senate in 2022 only to be vetoed by then-Gov. Chris Sununu.

Based on local geology, it seeks to establish a formula for determining the distance for which a new landfill shall be located from a perennial river, lake, or coastal water and would require the New Hampshire Department of Environmental Services to develop site-specific and time-based setback distances for proposed new landfills.

"It's all about distance of travel," said state Rep. Kelley Potenza, R-Rochester, a committee member and prime sponsor of HB 707.

As currently worded, HB 707 states the Legislature finds that the protection of health and safety and keeping drinking water from contamination is in the utmost public interest, "therefore the setback from a proposed landfill to such a water body should be sufficient to prevent groundwater contaminated by a leak, spill, or other failure from reaching the water body before remedial action can be implemented."

It proposes a 5-year period that "should be sufficient to detect and map a failure, assess appropriate remediation, meet engineering and regulatory requirements, and initiate the remedy."

"We have the weakest rules in the world," said Potenza. "This bill is exactly what we need — it's the guardrails, basically."

Current NHDES rules allow pollution in groundwater to move at three feet per day, while many nations only allow a few feet per year, she said.

HB 707 follows Joint Legislative Committee on Administrative Rules sessions late last year, where JLCAR first resisted solid waste rule changes and felt it would be making a policy decision that is best left to the Legislature, she said.

The most important words in HB 707 are that the NHDES commissioner shall have the responsibility to adopt rules “necessary to protect the public health and the environment with an ample margin of safety,” said Potenza.

The new rules eventually adopted by JLCAR “have missed the mark, I’d say tenfold” and are “contrary to the public interest,” she said.

Current rules, for example, would allow a new landfill to be sited essentially anywhere as long as it is atop 24 inches of imported soil as a base layer, said Potenza.

Amy Manzelli, an environmental attorney representing the North Country Alliance for Balanced Change, said the 24 inches of imported soil is a “loophole so big you could drive a Mack truck through it.”

Critics of the proposed commercial landfill in Dalton said if a leak were to occur such a base layer wouldn’t be enough for the site that is atop much sand and gravel with fast-flowing groundwater beneath.

“The governor has strongly signaled her opposition to the Dalton project,” said Potenza, who added that the prospect of the landfill is “more grim than it was a month ago.”

As HB 707 undergoes amendments, she suggested rewording language to deny permits to any applicant that is a “repeat offender” with repeated violations of federal, state, or local environmental regulations.

Because soils can vary in terms of being porous, such as gravel, or less porous, such as clay, HB 707 calls for a hydrologist to calculate the appropriate 5-year setback for a specific site rather than relying on an arbitrary number, she said.

“It’s all based on the time of travel and where the site is,” said Potenza.

During the JLCAR hearings, rules were weakened four times, public testimony was against the rules as proposed, and documentation from right-to-know requests later showed that the solid waste industry was privately meeting with NHDES to push back against new rules, she said.

“The Legislature needs to be in the driver’s seat,” said Potenza. “We’ve got to make the changes, and the time is now.”

Landfill operators make mistakes, liners fail, and all liners are going to leak eventually, she said, also citing NHDES records about the liner puncture at the NCES landfill in Bethlehem.

In response to those in the solid waste industry claiming that setbacks would make new landfill siting impossible, it was determined that about 83 percent of New Hampshire land could potentially still be available for a new landfill, said state Rep. Peter Bixby, D-Dover.

Lawmakers in support of HB 707 said no one from the industry provided evidence for their claim.

Siting is critical given that New Hampshire might only need one new landfill in the next 100 years to accommodate its own waste, said Potenza.

“A lot of people are awake,” said Potenza. “They’re really looking at this. The real New Hampshire advantage is clean drinking water and clean spaces.”

Of HB 707, she said, “It’s not stringent. We are still fairly weaker than 90 percent of other states.”

Turning out to the hearing to urge the committee to support the bill was Save Forest Lake founder Jon Swan, of Dalton, who, citing NHDES records, said more contaminants and increased levels of PFAS are showing up in NCES monitoring wells, representing what he called “a real-world example of a poorly sited landfill gone bad.”

Wayne Morrison, a Whitefield Forest Lake property owner and president of NCABC, said siting is the most important element in the life of a landfill and poor siting places New Hampshire citizens at risk, even for 100 years, because the risks continue.

He said that even the rule change from a 200-foot setback to 500 feet is insufficient.

“What we want is a margin of error,” said Morrison. “We want time if there is an accident ... Err on the side of caution.”

Despite double liners and engineered systems, people make mistakes and things break, he said, adding that water bodies and drinking water are “irreplaceable.”

“We should assume at some point a landfill will fail,” said Morrison. “The only thing saving us is that setback. When leachate hits the water, it’s over ... The heart of this bill is the right thing for New Hampshire.”

HB 707 “brings a modern scientific approach to siting landfills,” said Manzelli.

Regardless of how many liners there might be, there is operator error, which is what happened at NCES when a contractor drilling new test wells punctured the over-liner, said Manzelli.

In 2024, she said NCES reported 10 years of a leak to NHDES.

There's also no liner when leachate trucks are driving out of a facility, she said.

Mike Wimsatt, director of NHDES's Solid Waste Management Bureau, said DES is not taking a position on HB 707. He offered suggestions to address what he said are technical and wording issues in the bill, among them about aquifers.

No representative of the solid waste industry spoke at Tuesday's hearing.

Of those viewing the hearing online, 215 people were in support of HB 707 and four opposed.