

HB 602-FN - AS INTRODUCED

2023 SESSION

23-0725

08/10

HOUSE BILL ***602-FN***

AN ACT relative to landfill siting.

SPONSORS: Rep. Simon, Graf. 1; Rep. Mooney, Hills. 12; Rep. Rung, Hills. 12; Rep. Rochefort,
Graf. 1

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill establishes additional requirements for siting of landfills as permitted by the department of environmental services.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to landfill siting.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Permit Required; New Landfills. Amend RSA 149-M:9 by inserting after
2 paragraph XV the following new paragraph:

3 XVI.(a) Applicants for new landfill permit shall demonstrate that the landfill shall be sited,
4 designed, constructed, operated, and closed to meet the following standards:

5 (1) Landfills shall not contaminate groundwater outside the solid waste boundary;

6 (2) Time of travel to sensitive receptors from the bottom of the landfill and leachate
7 pond liner systems shall be greater than 5 years. Time of travel to sensitive receptors from leachate
8 storage structures and pump stations shall be greater than 3 years;

9 (A) The applicant, at the applicant's expense, shall hire an independent
10 hydrogeologist to estimate, based upon adequate and representative on-site field testing, the
11 maximum seepage velocity of groundwater in both surficial geological deposits and in bedrock. The
12 maximum seepage velocity shall be the highest rate measured at any test site in the disposal area.
13 The 5-year distance-of-travel estimate shall be calculated by multiplying the maximum seepage
14 velocity, in units of feet per year, by 5 (years).

15 (B) Sensitive receptors means public and private water supply aquifers and
16 wellhead protection zones; public and private drinking water supplies; significant groundwater
17 aquifers and primary sand and gravel recharge areas; sand and gravel deposits; and any perennial
18 river, lake, or coastal water of New Hampshire, as defined in RSA 483-B:4, XVI.

19 (C) The department may establish rules under RSA to allow for the use of project
20 improvement allowances that may enable a project to meet a minimum 5-year setback, even if it is
21 located less than 5 years from a surface water body. One or more allowances of one additional year
22 each may be added to the calculated travel time, based on specific additional control technology,
23 monitoring programs, or funding guarantees that the Department believes may increase the effective
24 safety of the project. In no case shall any project receive more than 3 additional years added to its
25 calculated travel time.

26 (3) Contaminant releases from the area within the solid waste boundary shall not
27 pose an unreasonable threat to sensitive receptors; and

28 (4) At facilities where groundwater monitoring is anticipated or is being conducted,
29 the disturbance of soil material shall not affect the ability to monitor water quality at the facility
30 site.

1 (b) To protect public health, safety, and the environment, the locations listed below are
2 not suitable for siting new landfills. Variances from these siting prohibitions shall not be granted:

3 (1) The area within the solid waste boundary shall not lie over or be within 300 feet
4 of a significant sand and gravel aquifer.

5 (2) The area within the solid waste boundary shall not lie over or be within 300 feet
6 of a significant sand and gravel aquifer;

7 (3) The area within the solid waste boundary shall be located on soils with sufficient
8 fines and clay-size particles to minimize leachate infiltration. Every measurement made of in-situ
9 soils within the property shall have an undisturbed hydraulic conductivity less than or equal to $1 \times$
10 10^{-5} cm/sec.

11 (c) The following siting criteria shall apply to siting new landfills unless the applicant or
12 licensee receives a variance in accordance with rules adopted under subparagraph XVIII(b):

13 (1) The following setbacks shall be maintained:

14 (A) A minimum 300-foot set-back between the solid waste boundary and all
15 public roads;

16 (B) A minimum 300-foot set-back between the solid waste boundary and the
17 property boundary;

18 (C) A minimum 1,000-foot set-back between the solid waste boundary and the
19 nearest residence not owned by the applicant at the time the application is filed with the
20 department;

21 (D) A minimum 100-foot setback between the solid waste boundary and
22 stratified sand and gravel deposits that are capable of providing sufficient water for domestic use or
23 are a contaminant migration pathway to a significant groundwater aquifer, a significant sand and
24 gravel aquifer, a fractured bedrock aquifer, or a surface water body;

25 (E) A minimum 100-foot setback between the waste handling area and classified
26 surface water; and

27 (F) A minimum 1,000-foot setback between the solid waste boundary and any
28 water supply spring when the preliminary information report is filed with the department.

29 (G) A minimum 1,000-foot setback between the solid waste boundary and any
30 water supply well not owned by the applicant when the preliminary information report is filed with
31 the department.

32 (2) The landfill and leachate storage ponds shall be located so that site
33 characterization, detection, and assessment monitoring can be conducted.

34 (3) The waste handling area shall not be located on a 100-year flood plain.

35 (4) A waste handling area shall not overlie an unstable area.

36 (5) The facility site shall not be located in, on, or over a significant wildlife habitat,
37 as this term is defined in RSA 674:21.

HB 602-FN - AS INTRODUCED

- Page 3 -

1 2 Effective Date. This act shall take effect 60 days after its passage.

**HB 602-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to landfill siting.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill establishes additional requirements for siting of landfills as permitted by the Department of Environmental Services. The Department of Environmental Services provided the following information on the fiscal impact of this bill:

- State Fiscal Impact. The Department would need to integrate the bill's requirements into the existing Administrative Rules. Additional staff is not needed, however staff time would be temporarily redirected to making rule updates. The Department assumes the cost would be funded by the general fund as the bill would not generate additional revenues.
- Local Fiscal Impacts. Local governments seeking a new landfill permit would be subject to the new requirements in the bill. The cost to seek approvals may increase because a local government would be required to pay for a hydrogeologist, engineers and other consultants as needed to demonstrate the siting criteria in the bill are met. The Department assumes a municipality that is host to a new landfill will receive revenue

from such facility. The bill may decrease revenue received by host municipalities due to increased landfill permitting costs resulting from the requirements in the bill. The bill would not generate any additional revenues for local governments.

The Department does not expect this bill would not generate any additional revenues for the state or political subdivisions. The bill may increase expenditures at all levels of government by some indeterminate amount. Costs associated with permitting a new landfill and the additional costs to own and operate a new landfill would likely be passed on to customers of such facilities, including government entities that generate and dispose of solid waste. Additionally, to the extent that the bill may limit development of new landfill capacity in the state, waste disposal costs could increase for all levels of government.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

Department of Environmental Services