

# Senate Executive Departments and Administration Committee

*Phil Jasak 271-1403*

**SB 211-FN**, relative to background investigations of solid waste and hazardous waste facility permit applicants.

**Hearing Date:** February 15, 2023

**Members of the Committee Present:** Senators Pearl, Carson, Gendreau, Perkins Kwoka and Altschiller

**Members of the Committee Absent :** None

**Bill Analysis:** This bill adds to the requirements for background investigations and criminal records checks for solid waste and hazardous waste facility permit applicants.

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**Sponsors:**

Sen. Pearl

Sen. Lang

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**Who supports the bill:** Sen. Pearl, Sen. Lang, Mike Wimsatt (DES), Henry Veilleux (WM INC)

**Who opposes the bill:** None

**Who is neutral on the bill:** None

**Summary of testimony presented:**

**Senator Pearl**

- Senator Pearl stated that he received concerns regarding language of the bill where it explains the required background checks on members who are prime investors. Sen. Pearl said he worked with Director Wimsatt from the New Hampshire Department of Environmental Services to craft an amendment.
- Se. Pearl then said that the amendment replaces the entire bill and removes some of the onerous regulations of the original bill as it came to members of the public who could be shareholders who happen to have greater than a 10 percent share of publicly traded solid waste facility company.

**Mike Wimsatt**

- Mike Wimsatt stated that this bill was filed at the request of the New Hampshire Department of Environmental Services. He stated that the NHDES

supported the amendment that Sen. Pearl introduced. Since the 1980s it has been required that solid and hazardous waste permit applicants are subjected to a performance history review as part of their application. The purpose of this is to ensure that they have the reliability, the expertise, the integrity, and the competence to safely operate their facility. DES is instructed to perform a background investigation of the performance history and criminal records of the applicants. The statute directs the DES to request the Attorney General to conduct an investigation.

- Mr. Wimsatt said *RSA 149M* and *RSA 147A* do not contain the necessary language to allow a multi-state investigation conducted by the FBI. He noted that one additional requirement of this background check is for the person to provide a fingerprint sample. Mr. Wimsatt originally incorporated a criminal background check to include individuals with debt and equity who hold greater than 10 percent of the debt and equity of a company.
- Mr. Wimsatt said that stakeholders reached out to him to notify him that this would be impractical and does not provide any further protection. The amendment removes that reference. This bill has all the same abilities as the original; but will now allow for the DES conduct multi-stage checks.
- Sen. Carson referred to page 2, section 3, and line 19 of the amendment. She asked who was to decide who has that substantial decision making authority. She asked if the amendment meant that now everyone in the facility will have to go through a background check and said she thought the language was too broad.
  - Mr. Wimsatt stated that the language in the statute has referred to key employees since the 1980s. He attempted to clarify what a key employee is. He stated that it is clear to applicants who submits for a background check and can identify their key employees. The purpose of this language is that the old statute language uses key employees which is not a particularly helpful term.

## Henry Veilleux

- Mr. Veilleux stated that the bill as introduced raised concerns; but he supports it with the amendment. He explained how, currently, not one entity has 10 percent or more interest in the company. He also expressed concerns for the difficulty of obtaining background checks.
- Mr. Veilleux expressed joy that the language regarding investors was removed from the bill and that the definition of key employees was expanded upon a little more. He then addressed Sen. Carson's previous question and stated that he hoped the department would take a conservative approach because the time frame to turn around and get the permit approved could result in substantial work and time.
- Mr. Veilleux urged the committee to move SB 211 forward with the amendment.

PJ

Date Hearing Report completed: February 17, 2023