

HB 215-FN - AS AMENDED BY THE HOUSE

6Mar2025... 0335h

2025 SESSION

25-0257
08/05

HOUSE BILL ***215-FN***

AN ACT requiring a landfill permit applicant to submit a report listing potential harms and benefits of the project.

SPONSORS: Rep. N. Germana, Ches. 15; Rep. Bixby, Straf. 13; Rep. Gruber, Ches. 16; Rep. S. King, Coos 4; Rep. Potenza, Straf. 19; Rep. J. Sullivan, Graf. 2; Rep. W. Thomas, Hills. 12; Sen. Fenton, Dist 10; Sen. Rochefort, Dist 1

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill requires a landfill permit applicant to submit a report listing potential harms and benefits of the project and requires the department of environmental services to make a determination that the landfill is a net public benefit.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Five

AN ACT requiring a landfill permit applicant to submit a report listing potential harms and benefits of the project.

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

1 1 Public Benefit Requirement; Net Public Benefit. RSA 149-M:11, III is repealed and reenacted
2 to read as follows:

3 III. Prior to completing its full technical review of an application, the department shall
4 determine whether a proposed solid waste facility provides a net public benefit through an initial
5 review process. A net public benefit exists if potential benefits for a proposed project are determined
6 to be greater than the potential harms. Only if the department determines that a net public benefit
7 exists shall the application proceed for further review. To make this determination, the department
8 shall consider:

9 (a) The short-and long-term need for a solid waste facility of the proposed type, size, and
10 location to provide capacity to accommodate solid waste generated within the borders of New
11 Hampshire, which capacity need shall be identified as provided in paragraph V.

12 (b) The ability of the proposed facility to assist the state in achieving the implementation
13 of the hierarchy and goals under RSA 149-M:2 and RSA 149-M:3.

14 (c) The ability of the proposed facility to assist in achieving the goals of the state solid
15 waste management plan, and one or more solid waste management plans submitted to and approved
16 by the department under RSA 149-M:24 and RSA 149-M:25.

17 (d) To assist the department in the determination of net public benefit, an assessment
18 shall be conducted on behalf of the host community and/or other abutting municipalities by an
19 independent third party contractor and the costs for such assessment shall be borne by the
20 applicant. The applicant shall submit a list of no fewer than three independent third party
21 contractors to the department. The department shall review the qualifications of the contractors,
22 and provided that it finds them qualified, shall work in consultation with the host community and
23 the applicant to select a mutually agreeable contractor. If the department determines that one or
24 more of the submitted contractors is not qualified, it shall require the applicant to identify additional
25 contractors. If a mutually agreeable third party has not been identified within 60 days, the
26 commissioner shall choose from the submitted list.

27 (e) The required assessment shall include both potential harms and potential benefits
28 associated with the proposed facility. Potential harms shall include any potentially harmful impacts
29 on human health, property values, tourism, outdoor recreation, and wildlife. Such impacts may
30 include noise, odor, traffic, greenhouse gas, and other emissions emanating from the facility and

1 emissions from transport of solid waste-related material and by-products to and from the proposed
2 facility. Potential benefits shall include, in addition to capacity need as described in subparagraph
3 III(a), potential economic benefits to the local area and potential infrastructure improvements
4 associated with the proposed project, and other factors as identified by the contractor.

5 (f) To assist in review of the third-party assessment, the department shall consult, as
6 needed, with the department of transportation to evaluate impacts on local traffic and
7 infrastructure; the department of business and economic affairs to evaluate impacts on the local
8 economy; and the department of natural and cultural resources to evaluate impacts on tourism and
9 local natural and cultural resources.

10 (g) The department shall issue its determination of whether the proposed facility
11 provides a net public benefit prior to completing a full technical review of the application. If the
12 department determines that the facility does provide a net public benefit, the department shall
13 notify the applicant in writing, and shall proceed with technical review. If the department
14 determines that the proposed facility does not provide a net public benefit, it shall issue a written
15 denial of the application.

16 2 New Subparagraphs; Satisfaction of Capacity Need. Amend RSA 149-M:11, V by inserting
17 after subparagraph (d) the following new subparagraphs:

18 (e) For an applicant seeking to expand an existing and fully permitted RCRA Subtitle D
19 landfill, the department shall find that the expansion will satisfy the state's capacity need if, during
20 the years for which the permit shall be granted, the state will face a capacity shortfall for at least
21 one-half of those years.

22 (f) For an applicant seeking to develop a new landfill at a site where none currently
23 exists, the department shall find that the new project will satisfy the state's capacity need if, during
24 the years for which the permit shall be granted, the state will face a capacity shortfall for at least
25 one-half of those years. However, the department shall not allow the new landfill to begin accepting
26 waste until the first year in which a shortfall is expected to exist.

27 3 Public Benefit Requirement; Net Public Benefit. Amend RSA 149-M:11, VIII to read as
28 follows:

29 VIII. Each applicant for a solid waste permit under this chapter shall have the burden of
30 demonstrating that a proposed solid waste facility provides a *net* public benefit by showing how the
31 proposed facility satisfies the criteria listed under paragraph III. Such demonstration shall be
32 included as part of each application for a solid waste permit. ***The net public benefit of a proposed***
33 ***operation or project shall be limited solely to an evaluation of that project and may not be***
34 ***mitigated or enhanced in relation to any other unrelated project.***

35 4 Public Benefit Required; Net Public Benefit. Amend RSA 149-M:11, XI to read as follows:

36 XI. Facilities permitted under this chapter shall be operated so as to provide a [substantial]
37 *net* public benefit consistent with the information submitted as part of the application concerning

HB 215-FN - AS AMENDED BY THE HOUSE

- Page 3 -

1 how the facility accommodates New Hampshire capacity needs. If a permittee cannot demonstrate
2 consistency with information submitted in its permit application, and where it no longer meets needs
3 identified in the state solid waste management plan and one or more solid waste management plans
4 submitted to and approved by the department under RSA 149-M:25 due to circumstances beyond its
5 control, as determined by the commissioner and the attorney general, the department shall not
6 enforce this paragraph based solely upon such inconsistency.

7 5 Effective Date. This act shall take effect 60 days after its passage.

HB 215-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-0335h)

AN ACT requiring a landfill permit applicant to submit a report listing potential harms and benefits of the project.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

| Estimated State Impact | | | | |
|-------------------------------|----------------|--|--|--|
| | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| <i>Revenue Fund(s)</i> | None | | | |
| Expenditures* | \$0 | Indeterminable Increase \$153,000+ | Indeterminable Increase \$196,000+ | Indeterminable Increase \$202,000+ |
| <i>Funding Source(s)</i> | General Fund | | | |
| Appropriations* | \$0 | \$0 | \$0 | \$0 |
| <i>Funding Source(s)</i> | None | | | |

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

| Estimated Political Subdivision Impact | | | | |
|---|----------------|---|---|---|
| | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
| County Revenue | \$0 | \$0 | \$0 | \$0 |
| County Expenditures | \$0 | Indeterminable Increase (\$0 - \$100,000) | Indeterminable Increase (\$0 - \$100,000) | Indeterminable Increase (\$0 - \$100,000) |
| Local Revenue | \$0 | \$0 | \$0 | \$0 |
| Local Expenditures | \$0 | Indeterminable Increase (\$0 - \$100,000) | Indeterminable Increase (\$0 - \$100,000) | Indeterminable Increase (\$0 - \$100,000) |

METHODOLOGY:

The Department of Environmental Services (DES) states this bill requires applicants for new or expanded solid waste facilities to demonstrate a "net public benefit" instead of the current "substantial public benefit" standard. The bill applies broadly to all facility types and sizes, including landfills, collection, storage, transfer, processing, and treatment facilities. It mandates an independent third-party assessment of the proposed facility's potential harms and benefits, which must be paid for by the applicant. DES assumes that public hearings will be required for facilities designed to accommodate more than 30 tons of waste per day, further extending

application review timelines. The bill also introduces additional procedural steps, including an extended review period before DES can complete an application determination.

The DES anticipates increased administrative costs due to the need for regulatory updates, more complex application reviews, and additional procedural requirements. The DES estimates that up to two new full-time staff members will be required: a licensed professional engineer and an environmental scientist, starting in October 2025. The estimated staffing costs are projected as \$153,000 in FY 2026, \$196,000 in FY 2027, and \$202,000 in FY 2028. Additionally, longer application review times and increased agency consultations may further strain DES resources, requiring additional funding allocations to maintain minimum service levels and meet statutory deadlines.

Additionally, the DES notes if a state, county, or municipal entity applies for a landfill expansion or a new landfill, the DES estimates potential additional expenditures ranging from \$0 to \$100,000. However, these costs depend on whether such applications are submitted. In years where no qualifying applications are filed, no expenditures would be incurred. Note: there are currently no State owned landfills.

AGENCIES CONTACTED:

Department of Environmental Services