

Amendment to HB 707-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a solid waste site evaluation committee.

4

5 Amend the bill by replacing all after the enacting clause with the following:

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7 1 New Subdivision; Solid Waste Site Evaluation Committee. Amend RSA 149-M by inserting
8 after section 64 the following new subdivision:

9

Solid Waste Site Evaluation Committee

10 149-M:65 Declaration of Purpose.

11 I. The legislature and the executive branch recognize that the selection of sites for major
12 solid waste disposal facilities may have significant statewide, regional, and local impacts that are
13 not fully evaluated through existing regulatory review.

14 II. Accordingly, the general court finds that it is in the public interest to establish a
15 procedure to evaluate the local, regional, and statewide benefits and burdens of a new major solid
16 waste facility that are not captured by existing regulatory reviews, including public health and
17 safety, noise, odor, aesthetics, local and regional economic impacts, property value impacts, nature
18 and source of waste, need, impacts on tourism, recreation and traffic, and other similar impacts.

19 III. Furthermore, the general court recognizes there is a compelling state interest in
20 maintaining adequate, reasonably priced, and environmentally protective disposal capacity for solid
21 waste generated in New Hampshire.

22 IV. The general court prefers that new landfill capacity be developed in expansions of
23 existing permitted landfills or brownfield sites instead of on greenfield sites.

24 149-M:66 Definitions. In this subdivision:

25 I. "Acceptance" means a determination by the committee that it finds that the application is
26 complete and ready for consideration.

27 II. "Administrator" means the administrator of the site evaluation committee established
28 pursuant to RSA 162-H:3-a.

29 III. "Affected municipality" means any municipality or unincorporated place in which any
30 part of a major solid waste disposal facility is proposed to be located and any municipality or
31 unincorporated place from which any part of the proposed major solid waste disposal facility will be
32 visible or audible, including off-site traffic impacts.

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1 IV. "Certificate" means the document issued by the committee, containing such terms and
2 conditions as the committee deems appropriate, that authorizes the applicant to proceed with the
3 proposed site and facility.

4 V. "Commence construction" means any clearing of the land, excavation or other substantial
5 action that would result in long-term impacts to the site of the proposed facility, but does not include
6 land surveying, optioning or acquiring land or rights in land, changes desirable for temporary use of
7 the land for public recreational uses, necessary subsurface explorations to determine hydrogeologic
8 and soil conditions, work required as part of an application to any federal, state, or local authority,
9 or other preconstruction monitoring or testing to establish background information related to the
10 suitability of the site for the proposed use.

11 VI. "Committee" means the solid waste evaluation committee established by this
12 subdivision.

13 VII. "Department" means the department of environmental services.

14 VIII. "Filing" means the date on which the application is first submitted to the committee.

15 IX. "Human health" is defined to be consistent with "public health and safety" as that term
16 is utilized in RSA 162-H.

17 X. "Landfill expansion" means an addition to the permitted capacity of an existing facility as
18 defined in RSA 149-M:4, IX.

19 XI. "Major solid waste disposal facility" means a location, system, or physical structure for
20 the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste with a
21 proposed waste acceptance rate greater than 100,000 tons per year. "Major solid waste disposal
22 facility" does not include a facility designed to manage food waste in accordance with RSA 149-M:27,
23 V(b)(1)-(5), or any facility proposed to be constructed by a New Hampshire municipal government.

24 XII. "Person" means any individual, group, firm, partnership, corporation, cooperative,
25 municipality, political subdivision, government agency, or other organization.

26 149-M:67 Solid Waste Evaluation Committee Established.

27 I. There is hereby established a committee to be known as the New Hampshire solid waste
28 site evaluation committee consisting of 7 members, as follows:

29 (a) The chairperson of the waste management council established under RSA 21-O:9.
30 who shall serve as chairperson of the committee. If there is an appeal pending before the waste
31 management council related to the major solid waste disposal facility, then the chairperson of the
32 wetlands council, water council, or air resources council established under RSA 21-O, selected by the
33 commissioner of the department, shall serve on the committee and as chairperson of the committee.

34 (b) The commissioner of the department of business and economic affairs, or designee.

35 (c) The commissioner of the department of environmental services, or designee.

36 (d) Four members and, when required by RSA 149-M:68, an alternate member,
37 appointed by the governor with the consent of the executive council, including a member who serves

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1 on a local conservation commission, a member who has expertise in the private waste management
2 industry, a member with expertise in municipal planning, and one member with expertise or
3 experience in environmental protection, environmental health, or environmental science.

4 (e) At any given time, there shall not be more than 2 members of the committee with
5 current or past employment, contract work, or consulting services in the private waste management
6 industry.

7 (f) No member of the committee may be an employee or contractor of an entity that owns
8 or operates an existing or planned major solid waste disposal facility or an entity that has applied to
9 own or operate a major solid waste disposal facility.

10 II. All members, including those who sit for a member recused under RSA 149-M:68, shall
11 refrain from ex parte communications regarding any matter pending before the committee. A
12 majority of the members of the committee shall constitute a quorum for the purpose of conducting
13 the committee's business.

14 III. The committee shall be administratively attached to the department of environmental
15 services.

16 IV. The chairperson shall serve as the chief executive of the committee and may:

17 (a) Serve as presiding officer.

18 (b) Delegate to other members the duties of the presiding officer, as appropriate.

19 (c) Establish, with the consent of the committee, the budgetary requirements of the
20 committee.

21 (d) Engage personnel in accordance with this chapter.

22 V. The presiding officer may appoint a hearing officer to perform the functions described in
23 RSA 149-M:70, V.

24 149-M:68 Members Appointed By The Governor With The Consent Of Council.

25 I. Members and alternate members appointed under RSA 149-M:67, I(c) and (d) shall serve
26 4-year terms and until their successors are appointed and qualified. Any member chosen to fill a
27 vacancy occurring other than by expiration of a term shall be appointed for the unexpired term of the
28 member who is succeeded.

29 II. If at any time the member appointed by the governor with the consent of the executive
30 council must recuse himself or herself from a matter before the committee or is not otherwise
31 available for good reason, the alternate member shall replace such member.

32 III. No member nor any member of his or her family shall receive income from entities that
33 own or operate, or have applied to own or operate, major solid waste disposal facilities in New
34 Hampshire. The members appointed by the governor with the consent of the executive council and
35 their alternates shall comply with RSA 15-A and RSA 15-B.

36 IV. Any member appointed by the governor with the consent of the executive council may be
37 removed from office in accordance with RSA 4:1.

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1 149-M:69 Administrator and Other Committee Support. The administrator shall provide
2 support to the committee. If the administrator is not available or the position is vacant, the
3 committee may hire an independent contractor at the expense of the applicant. The administrator
4 shall be under the supervision of the chairperson when performing duties for the committee. The
5 administrator shall be compensated for work performed for the committee as set forth in RSA 149-
6 M:85. The administrator, or chairperson in the absence of an administrator, with committee
7 approval, may engage additional technical, legal, or administrative support to fulfill the functions of
8 the committee as necessary.

9 149-M:70 Powers and Duties of the Committee; Rules.

10 I. The committee shall:

11 (a) Evaluate and issue any certificate under this chapter for a major solid waste
12 disposal facility.

13 (b) Determine the terms and conditions of any certificate issued under this chapter.

14 (c) Adjudicate enforcement matters.

15 (d) Assist the public in understanding the requirements of this chapter.

16 (e) Deny applications for a certificate based on such findings and rulings as may be
17 necessary to support its decision to deny.

18 (f) Execute the general court's stated preference that new landfill capacity shall be based
19 on need and shall only be developed in accordance with RSA 149-M:65, IV.

20 II. The committee shall hold hearings as required by this chapter and such additional
21 hearings as it deems necessary and appropriate and, in addition to the requirements under RSA 91-
22 A, ensure adequate and timely public notice of no less than 7 calendar days.

23 III. The committee may delegate to the administrator or such state agency or official as it
24 deems appropriate the authority to specify the use of any technique, methodology, practice, or
25 procedure approved by the committee within a certificate issued under this chapter, or the authority
26 to specify minor changes in the major solid waste disposal facility configuration to the extent that
27 such changes are authorized by the certificate for those portions of a proposed major solid waste
28 disposal facility project.

29 IV. The committee shall not delegate its authority or duties except as provided under this
30 subdivision.

31 V. In any matter before the committee, the presiding officer, or a hearing officer designated
32 by the presiding officer, may hear and decide procedural matters that are before the committee,
33 including procedural schedules, consolidation of parties with substantially similar interests,
34 discovery schedules and motions, and identification of significant disputed issues for hearing and
35 decision by the committee. Undisputed petitions for intervention may be decided by the hearing
36 officer and disputed petitions shall be decided by the presiding officer. Any party aggrieved by a

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1 decision on a petition to intervene may within 10 calendar days request that the committee review
2 such decision. Other procedural decisions may be reviewed by the committee at its discretion.

3 VI. The committee shall issue such rules to administer this chapter, pursuant to RSA 541-A,
4 after public notice and hearing, as may from time to time be required.

5 149-M:71 Prohibitions and Restrictions.

6 I. No person shall commence construction of any major solid waste disposal facility within
7 the state unless it has obtained a certificate pursuant to this chapter. Such facilities shall be
8 constructed, operated, and maintained in accordance with the terms of the certificate. Such
9 certificates are not required for changes or additions to existing facilities unless they propose an
10 increase in the average permitted annual capacity over the lifespan of the existing facility greater
11 than or equal to 50,000 tons or 100,000 cubic yards per year. Such a certificate shall not be
12 transferred or assigned without approval of the committee. Unless otherwise specified in this
13 chapter, any approved major solid waste facility shall not be constructed, operated, or closed in a
14 manner materially different than the manner in which it was presented in the application for a
15 certificate as modified and conditioned by such certificate.

16 II. Notwithstanding RSA 541-A:29 or any other law to the contrary, an application for a
17 certificate from the committee shall be approved or denied by the committee prior to final decisions
18 on all other state agency permit applications, except for the department's determination in
19 accordance with RSA 149-M:11, III. Applications for certificates may be filed and evaluated by the
20 committee concurrently with other state approvals and public hearings may be scheduled
21 concurrently with hearings held by other state agencies as part of their permitting process for the
22 same facility.

23 III. Notwithstanding paragraph II, for facilities under review by the department for a
24 permit on or prior to July 1, 2026, an application for a certificate from the committee shall be
25 approved or denied after other state agency approvals have been obtained. The committee need not
26 assess technical questions already considered by other states or federal agencies, but shall take into
27 account the conclusions of these analyses, including permit terms and conditions, in its approval or
28 denial of the certificate. The committee may also take into account independent analyses in its
29 process of approval or denial of the certificate.

30 149-M:72 Application for Certificate.

31 I. All applications for a certificate for a major solid waste disposal facility shall be filed with
32 the administrator or the chair of the committee.

33 II. Upon filing of an application, the chairperson or designated presiding officer shall
34 expeditiously conduct a preliminary review to ascertain if the application contains sufficient
35 information to carry out the purposes of this chapter. If the application does not contain such
36 sufficient information, the chairperson or designated presiding officer shall, in writing, expeditiously
37 notify the applicant of that fact and specify what information the applicant must supply.

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1 III. To carry out the committee's duties in RSA 149-M:70, each application shall:

2 (a) Describe in reasonable detail the types and quantities of waste and their
3 characteristics proposed to be accepted and size of each major part of the proposed facility.

4 (b) Describe in reasonable detail the source of waste to be accepted and if there is a
5 preference for waste originating within the state of New Hampshire.

6 (c) Describe how the proposed facility satisfies the criteria listed under RSA 149-M:11,

7 III.

8 (d) Identify both the applicant's preferred choice and other alternatives it considers
9 available for the site and configuration of each major part of the proposed facility and the reasons for
10 the applicant's preferred choice.

11 (e) Describe in reasonable detail the impact of each major part of the proposed facility on
12 existing local, regional, and state land uses.

13 (f) Document that written notification of the proposed project, including appropriate
14 copies of the application, has been given to the appropriate governing body of each affected
15 municipality, as defined in RSA 149-M:66, III. The application shall include a list of the affected
16 municipalities.

17 (g) Provide analysis on the local, regional, and statewide visual impact of the proposed
18 facility during construction, operation, and post-closure and the visual impacts as evaluated through
19 a visual impact assessment prepared in accordance with professional standards by an expert in the
20 field.

21 (h) Provide information in reasonable detail about the impacts on local, regional and
22 state property values, human health, tourism, outdoor recreation, wildlife, traffic, noise, and odor by
23 the proposed facility. These analyses shall be conducted in accordance with professional standards
24 by an expert in these fields.

25 (i) Provide a reasonable amount of information relative to how new contaminants of
26 concern not regulated by a permit issued by the department will be monitored, evaluated, and
27 managed over the proposed life of the facility.

28 (j) Provide a reasonable amount of information relative to the potential economic harms
29 of the proposed project on the local area, affected municipalities, the region, the state, and potential
30 infrastructure deterioration.

31 (k) Provide a reasonable amount of information relative to the potential economic
32 benefits of the proposed project on the local area, affected municipalities, the region, the state, and
33 potential infrastructure improvements.

34 (l) Provide such additional information as the committee may require or request to carry
35 out the purpose of this chapter.

36 IV. To the extent any information provided in the application was submitted and considered
37 by a state agency as part of its permitting evaluation and decision under RSA 149-M:71, III, the

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1 applicant shall specify what information was so considered and the statutory and regulatory
2 authority for that agency's consideration of the information.

3 V. For all information submitted with the application that was prepared by an outside
4 consultant or expert, the applicant shall submit the qualifications of such consultants or experts to
5 prepare such information.

6 VI. The committee shall require the applicant to hire an independent third party at the
7 expense of the applicant and agreed upon by the committee in consultation with the municipality
8 where the facility is proposed to be located, to peer review any assessments provided under this
9 section.

10 VII. The chairperson or designated presiding officer shall decide whether to accept the
11 application as administratively complete within 60 days of filing. If the chairperson or designated
12 presiding officer rejects an application because it determines it to be administratively incomplete,
13 the applicant may choose to file a new and more complete application or cure the defects in the
14 rejected application within 30 days of receipt of notification of rejection. Such deadlines may be
15 extended by agreement of the applicant and the committee.

16 VIII. Public information sessions shall be held in accordance with RSA 149-M:76.

17 IX. Within 180 days of the acceptance of an application, the committee shall issue or deny a
18 certificate for the proposed major solid waste disposal facility.

19 X. The applicant shall immediately inform the committee of any substantive modification to
20 its application.

21 XI. The committee may request that state agencies with relevant technical expertise
22 participate in committee proceedings.

23 XII. The department shall conduct a review of the application information submitted
24 pursuant to RSA 149-M:72, III(c) to determine whether the facility has demonstrated that it satisfies
25 the criteria in RSA 149-M:11, III. Such review shall be conducted in accordance with RSA 149-M:11.
26 The department shall report its findings to the committee in order to inform the committee's decision
27 on the application.

28 XIII. The committee may deny a certificate based upon the department's findings in relation
29 to RSA 149-M:11, III.

30 XIV. The committee may deny a certificate based upon the criteria in RSA 149-M:9, IX.

31 XV. A state agency may intervene as a party in any committee proceeding in the same
32 manner as other persons under RSA 541-A.

33 149-M:73 Disclosure of Ownership. Any application for a certificate, or for change in ownership
34 and transfer of certificate, shall be signed and sworn to by the person or executive officer of the
35 association or corporation making such application and shall contain the following information:

36 I. Full name and address of the person, association, or corporation.

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1 II. If an association or limited liability company, the name of the state under which it was
2 formed and the names and residences of the members of the association or limited liability company.

3 III. If a corporation, the name of the state under which it is incorporated with its principal
4 place of business and the names and addresses of its directors, officers, and stockholders.

5 IV. If doing business in a form other than as an association, limited liability company, or
6 corporation, the form of the business, the name of the state under which it was formed, and the
7 names and residences of anyone with a financial, ownership, or control interest in the organization.

8 V. The location or locations where an applicant is to conduct its business.

9 VI. A statement of assets and liabilities of the applicant and other relevant financial
10 information of such applicant.

11 VII. The committee shall administratively approve changes of ownership and transfers of
12 certificates within 90 days of a petition if it determines the new certificate holder has adequate
13 financial, technical, and managerial capability to assure construction and operation of the facility in
14 continuing compliance with the terms and conditions of the certificate and any federal, state, and
15 local permits.

16 149-M:74 Application and Filing Fees.

17 I. A person filing with the committee an application for a certificate for a major solid waste
18 disposal facility shall pay to the committee at the time of filing a fee determined in accordance with
19 the fee schedule described in paragraph II. If an application for a certificate for a major solid waste
20 disposal facility is deemed incomplete pursuant to RSA 149-M:72, VII, and a new application is
21 submitted thereunder, the unused portion of the initial application fee shall be refunded to the
22 applicant or credited to the filing of the new application. The committee may in its discretion
23 provide for a credit or refund in other circumstances that are unforeseen by the applicant.

24 II. The fees under paragraph I shall be determined in accordance with a fee schedule posted
25 by the committee on its website, which shall include the following amounts:

26 (a) Application fee for a major solid waste disposal facility: \$20,000 base charge and
27 \$1,000 per additional 10,000 tons/year throughput in excess of 100,000 tons per year.

28 (b) Filing fees for administrative proceedings:

29 (1) Petition for committee jurisdiction: \$500.

30 (2) Certificate transfer of ownership: \$1,000.

31 (3) Request to modify a certificate: \$1,000.

32 III. All fee charges shall be deposited in the solid waste evaluation committee fund
33 established in RSA 149-M:84 and shall be nonlapsing and accounted for as a separate line item.

34 IV. The committee shall review and evaluate the application fees and filing fees in the fee
35 schedule in subparagraphs II(a) and (b) at least once each year. The committee may increase any
36 amount in the fee schedule by no more than the increase in the consumer price index from the prior

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1 year, provided that any such increase shall occur not more frequently than once during any 12-
2 month period. Modifications to the fee schedule shall be posted on the committee website, with a
3 link prominently displayed on the home page.

4 V. If the committee determines the cost of committee proceedings for an application
5 significantly exceed the filing fees paid by the applicant for that application, the additional cost shall
6 be borne by the applicant or certificate holder in such amount as may be approved by the committee.

7 149-M:75 Counsel for the Public.

8 I. An application for a certificate under this subdivision shall be served contemporaneously
9 by the applicant upon the attorney general. Upon receipt of such an application, the attorney
10 general shall appoint an assistant attorney general as counsel for the public in connection with the
11 committee's consideration of the application. Counsel for the public shall be deemed to represent the
12 public as a party to the proceedings before the committee.

13 II. This section shall not be construed to prevent any person from being heard or
14 represented by counsel; provided, however, the committee may compel consolidation of
15 representation for such persons as have, in the committee's reasonable judgment, substantially
16 identical interests.

17 149-M:76 Public Hearing; Studies.

18 I. Notice of any project for which an application for a certificate has been submitted shall be
19 issued pursuant to RSA 36:56, III.

20 II. At least 30 days prior to filing an application for a certificate, an applicant shall hold at
21 least one public information session in the affected municipality where the proposed facility is to be
22 located. This session may be held concurrently with a public session held as a requirement of any
23 other state permit or approval.

24 III. The committee may order the applicant to provide such additional public information
25 sessions in affected municipalities as are reasonable to inform the public of the proposed project.

26 IV. Within 90 days after acceptance of an application for a certificate, the committee shall
27 hold at least one public information session in each municipality where the proposed facility is
28 proposed to be located.

29 V. Subsequent public hearings shall be in the nature of adjudicative proceedings under RSA
30 541-A and shall be held in the municipality in which the proposed facility is to be located or in
31 Concord, New Hampshire, as determined by the committee. The committee shall give adequate
32 public notice of the time and place of each subsequent hearing.

33 VI. The committee shall adopt rules regarding the timing and method of notices for public
34 information sessions and public hearings, and any other requirements regarding such sessions and
35 hearings.

36 VII. The committee shall consider and weigh all evidence presented at public hearings and
37 shall consider and weigh written information and reports submitted to it by members of the public

1 prior to the closing of the record of the proceeding. The committee shall provide an opportunity at
2 one or more public hearings for comments from the governing body of each affected municipality and
3 residents of each affected municipality. The committee shall consider, as appropriate, prior
4 committee findings and rulings on the same or similar subject matters, but shall not be bound
5 thereby.

6 VIII. The solid waste evaluation committee shall require from the applicant whatever
7 information it deems necessary to assist in the conduct of the hearings, and any investigation or
8 studies it may undertake, and in the determination of the terms and conditions of any certificate
9 under consideration.

10 IX. The committee and counsel for the public shall conduct such reasonable studies and
11 investigations as they deem necessary or appropriate to carry out the purposes of this chapter and
12 may employ a consultant or consultants, legal counsel, and other staff in furtherance of the duties
13 imposed by this chapter, the cost of which shall be borne by the applicant or certificate holder in
14 such amount as may be approved by the committee. The committee and counsel for the public are
15 further authorized to assess the applicant or certificate holder for all travel and related expenses
16 associated with the processing of an application or other proceedings under this chapter.

17 X. Times for conducting public hearings and rendering a decision on the application may be
18 extended for good cause upon written request of the applicant.

19 149-M:77 Judicial Review. Decisions made pursuant to this chapter shall be appealed in
20 accordance with RSA 541.

21 149-M:78 Monitoring and Enforcement.

22 I. The department shall monitor the construction and operation of any major solid waste
23 disposal facility granted a certificate under this chapter, after all other subsequent approvals are
24 obtained, to ensure compliance with such certificate and enforce the terms and conditions of any
25 such certificate. With the exception of the authority retained by the state agencies in accordance
26 with paragraph V, the department may delegate the authority to monitor the construction or
27 operation of any major solid waste disposal facility granted a certificate under this chapter to such
28 state agency or official as it deems appropriate but shall ensure that the terms and conditions of the
29 certificate are met. Any authorized representative or delegate of the department shall have a right
30 of entry onto the premises of any part of the solid waste generation facility to ascertain if the facility
31 is being constructed or operated in continuing compliance with the terms and conditions of the
32 certificate. During normal hours of business administration and on the premises of the facility, such
33 a representative or delegate shall also have a right to inspect such records of the certificate holder as
34 are relevant to the terms or conditions of the certificate.

35 II. Whenever the department administratively determines, on its own or in response to a
36 complaint, that any term or condition of any certificate issued under this chapter or prior law is
37 being violated, it shall, in writing, notify the certificate holder of the specific violation and order the

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1 person to immediately terminate the violation. If, 60 days after receipt of the order, the person has
2 failed or neglected to terminate the violation or be compliant in addressing the violation consistent
3 with direction from the department, the department shall notify the committee, which may suspend
4 the person's certificate. In addition to suspension, if, after 60 days of receipt of the order, the person
5 has failed or neglected to terminate the violation, the committee may impose a fine not to exceed
6 \$5,000 per day until the violation is corrected. Except for emergencies, prior to any suspension or
7 imposition of a fine, the committee shall give written notice of its consideration of suspension or
8 imposition of a fine and of its reasons therefor and shall provide opportunity for a prompt hearing.

9 III. In addition to other remedies provided in this chapter, upon petition of the department,
10 the committee may suspend a certificate if the committee determines that a person has made a
11 material misrepresentation in the application, or in the supplemental or additional statements of
12 fact, or studies required of the applicant, or if the committee determines that the person has violated
13 the provisions of this chapter, or any rule adopted under this chapter. Except for emergencies, prior
14 to any suspension, the committee shall give written notice of its consideration of suspension and of
15 its reasons therefor and shall provide an opportunity for a prompt hearing.

16 IV. Upon petition of the department, the committee may revoke any certificate that is
17 suspended after the person holding the suspended certificate has been given at least 90 days' written
18 notice of the committee's consideration of revocation and of its reasons therefor and has been
19 provided an opportunity for a full hearing.

20 V. Notwithstanding any other provision of this chapter, each state agency having permitting
21 or other regulatory authority shall retain all of its powers and duties of enforcement.

22 VI. The full amount of costs and expenses incurred by the department and committee in
23 connection with any enforcement action against a person holding a certificate, in which the person is
24 determined to have violated any provision of this chapter, any rule adopted by the department or
25 committee, or any of the terms and conditions of the issued certificate, shall be assessed to the
26 person and shall be paid by the person to the committee. Any amounts paid by a person to the
27 committee pursuant to this paragraph shall be deposited in the solid waste evaluation committee
28 fund established in RSA 149-M:84.

29 VII. The department may adopt rules in furtherance of its monitoring and enforcement
30 responsibilities under this chapter.

31 149-M:79 Records. Complete verbatim records shall be kept by the committee of all hearings,
32 and records of all other actions, proceedings, and correspondence of the committee, including
33 submittals of information and reports by members of the public, shall be maintained, all of which
34 records shall be open to the public inspection and copying as provided for under RSA 91-A.
35 Committee records regarding pending applications for a certificate shall also be made available on
36 the committee's website unless such records were submitted under seal and are exempt from public
37 disclosure under RSA 91-A.

1 149-M:80 Temporary Suspension of Deliberations. If the committee, at any time while an
2 application for a certificate is before it, deems it to be in the public interest, it may temporarily
3 suspend its deliberations and time frames established under this chapter.

4 149-M:81 Findings and Certificate Issuance.

5 I. Any certificate issued by the committee shall be based on the record. The decision to issue
6 a certificate in its final form or to deny an application once it has been accepted shall be made by a
7 majority of the committee.

8 II. The committee may consult with interested regional agencies and agencies of border
9 states in the consideration of certificates.

10 III. After due consideration of all relevant information regarding the potential siting,
11 including potential significant impacts and benefits, the committee shall determine if issuance of a
12 certificate will serve the objectives of this chapter. In order to issue a certificate, the committee shall
13 find that:

14 (a) The applicant has adequate financial, technical, and managerial capability to assure
15 construction, operation, and closure of the facility in continuing compliance with the terms and
16 conditions of the certificate.

17 (b) The facility will not unduly interfere with the orderly development of the region with
18 due consideration having been given to the views of municipal and regional planning commissions
19 and municipal governing bodies.

20 (c) The facility satisfies the criteria in RSA 149-M:11, III, as determined by the
21 department.

22 (d) The public benefit of the facility shall outweigh any adverse impact of the facility on
23 human health, aesthetics, historic preservation, economic impacts to the region, tourism, outdoor
24 recreation, regional and statewide business development, wildlife, noise, odor, traffic and
25 transportation impacts, existing land uses, including property values, characteristics and source of
26 waste, and any other impacts assessed as part of the application pursuant to RSA 149-M:72, III.

27 (e) Issuance of a certificate will serve the public interest of the citizens of New
28 Hampshire.

29 IV. The committee shall issue an order granting or denying a certificate. Such order shall
30 summarize and address issues of concern expressed during public information sessions and hearings
31 to ensure that the public's voice has been heard and recorded.

32 V. A certificate of site and facility may contain such reasonable terms and conditions,
33 including, but not limited to the authority to require bonding, as the committee deems necessary.
34 Such certificates, when issued, shall be final and subject only to judicial review.

35 VI. The committee shall condition the certificate upon the results of applicable federal and
36 state approvals or appeal processes and required federal and state agency studies whose study
37 period exceeds the application period.

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1 VII. There shall be a rebuttable presumption that applications for landfill expansions shall
2 satisfy the criteria in subparagraphs III(a), III(b), and III(d). The burden of producing evidence to
3 rebut this presumption rests with the party challenging the action. This presumption may be
4 rebutted by a preponderance of the evidence.

5 149-M:82 Penalties.

6 I. Any construction or operation of major solid waste disposal facilities without first
7 obtaining a certificate from the committee, or any material violation of the terms and conditions of a
8 certificate issued by the committee, shall be subject to a civil penalty not to exceed \$10,000 for each
9 violation or for each day of a continuing violation. Such violation may also be enjoined by the
10 superior court upon application of the attorney general.

11 II. Whoever purposely or knowingly commits any violation of any provision of this section
12 shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

13 149-M:83 Severability. If any provision of this chapter, or application thereof to any person or
14 circumstance is held invalid, the invalidity shall not affect other provisions or applications of the
15 chapter which can be given effect without the invalid provisions or applications, and to this end, the
16 provisions of this chapter are severable.

17 149-M:84 Fund Established; Funding Plan. There is hereby established in the office of the state
18 treasurer a nonlapsing, special fund to be known as the solid waste evaluation committee fund. All
19 application and other filing fees received by the committee under this chapter shall be deposited in
20 the fund. All moneys in the fund shall be continually appropriated to the committee and shall be
21 used to pay for operating costs of the committee and the partial salary of the administrator. If the
22 administrator position is vacant, the fund may be used to pay an independent contractor to perform
23 those duties. Notwithstanding any other provision of law, the committee may engage the
24 department for additional technical, legal, or administrative support to fulfill the requirements of
25 this chapter, the cost of which shall be charged directly to the applicant or major solid waste disposal
26 facility owner.

27 149-M:85 Compensation and Reimbursement.

28 I. The public members of the committee shall be compensated for all time spent on
29 committee business, including compensation and reimbursement for major solid waste disposal
30 facility proceeding time and expenses. Compensation shall be provided on a pro rata basis, based
31 upon the daily salary rate of an unclassified position at the initial step in grade FF under RSA 94:1-
32 a, I(a).

33 II. State agencies represented on the committee shall be reimbursed for major solid waste
34 disposal facility proceeding time and expenses incurred by their respective members or designees,
35 except that time spent for the first 5 full days of their participation with respect to any application or
36 other proceeding concerning a major solid waste disposal facility shall not be subject to

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1 reimbursement. The rate of reimbursement to each respective agency shall be based on a pro rata
2 share of the employee's salary, benefits, and related costs.

3 III The department of justice shall be reimbursed in the same manner as described in
4 paragraph II for major solid waste disposal facility proceeding time and expenses that are incurred
5 by the counsel for the public.

6 IV. All persons or agencies seeking compensation or reimbursement under this section shall
7 keep detailed time and expense records which shall be submitted to the chairperson or administrator
8 and used to determine the amount of compensation or reimbursement. The chairperson or
9 administrator shall develop a record keeping system and accounting and payment procedures.

10 V. Compensation shall not be provided to members of the committee for initial meetings
11 conducted prior to acceptance of application fees. The department shall provide support for the
12 adoption of rules established by the committee.

13 149-M:86 Solid Waste Permit Applications Suspended. The department shall not issue any
14 permit approvals that authorize new capacity for major solid waste disposal facilities until rules are
15 adopted by the committee or until July 1, 2027, whichever is later.

16 2 New Subparagraph; Solid Waste Evaluation Committee Fund. Amend RSA 6:12, I(b) by
17 inserting after subparagraph (410) the following new subparagraph:

18 (411) Moneys deposited in the solid waste evaluation committee fund as established
19 in RSA 149-M:84.

20 3 Effective Date. This act shall take effect 60 days after its passage.

2026-1932s

AMENDED ANALYSIS

This bill establishes a solid waste site evaluation committee.