

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1622-FN, requiring the state to develop additional solid waste disposal capacity.

Hearing Date: April 14, 2026

Time Opened: 10:18 a.m.

Time Closed: 10:56 a.m.

Members of the Committee Present: Senators Rosenwald, Avard, Watters and Pearl

Members of the Committee Absent : Senator McConkey

Bill Analysis: This bill directs the department of environmental services to give first preference to applications for additional landfill capacity.

Sponsors:

Rep. Haskins

Rep. N. Germana

Rep. Potenza

Rep. W. Thomas

Rep. Gruber

Sen. Fenton

Sen. Ricciardi

Who supports the bill: 34 Individuals signed in Support of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: None

Who is neutral on the bill: 1 Individual signed Neutral on the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Representative Linda Haskins, Rockingham 11

- She introduced the bill, describing it as straightforward. She noted that it was initially accompanied by a \$4 million fiscal note, but clarified that this was due to a misunderstanding between her and DES, and that there is, in fact, no fiscal impact.
- She explained that the bill prioritizes the expansion of existing landfill sites rather than the development of new greenfield locations. She added that this approach is consistent with positions already taken by the Senate, the Governor, and the Department—favoring expansion over the creation of new sites.

- She emphasized that the bill provides developers with maximum flexibility. While it does not prohibit greenfield development, it requires developers to provide an explanation if they choose that option. She also stated that there is no immediate capacity crisis, but the bill addresses future needs.

Senator Watters asked whether the fiscal note had been revised. He also referenced language in Sections E and F, lines 11–19, noting the “half or one half years” language to the years currently granted and whether at least half of those years would account for capacity. He requested clarification on the language.

Representative Haskins confirmed that the fiscal note had been amended and is now zero. She added that rather than leaving the provision open-ended, they assumed that capacity shortfalls could be addressed in roughly half of the allotted years, while still allowing sufficient flexibility to move projects through the permitting process. She added that if the assumption is a sticking point, they are open to revising it. The estimate is intended to provide developers with both opportunity and flexibility.

Senator Watters then noted, based on his experience on the original committee, that discussions of landfill capacity can be highly fluid. He pointed out that developing a site, even an expansion, takes significant time, and asked how the bill might limit actions that may be necessary in the future. He also expressed some hesitation about the language on line 19, suggesting it may imply broad discretion to “do what is needed” to develop a site.

Representative Haskins responded that expansion plans are already underway and noted that Waste Management could provide additional detail on that point. Regarding the issue of capacity being fungible, she stated that she may not be the best person to address that question.

Representative Nicholas Germna, Chesire 15

- He stated that the bill reflects the Senate’s policy preference of prioritizing brownfield development over greenfield sites. He noted that the third section of the bill formalizes this policy.
- Referring to Senator Watters’ earlier comments, he emphasized that demonstrating need is a key requirement. Applicants must show a need for capacity over a 20-year period, and he noted that the Supreme Court has granted broad latitude in how that need is determined.
- He explained that while permits are issued for a 20-year period, a facility is required to meet that demonstrated need for at least half of its operational life.
- He added that he would be able to address any specific questions regarding the language on line 19.
- Finally, he pointed out that Section 3, paragraph III, has contributed to some confusion around the fiscal note, clarifying that DES intends to implement the bill using existing resources.

Representative Potenza, Strafford 19

- Representative Potenza spoke in support of the bill, noting that it builds on language from previous Senate bills and the state budget.
- She emphasized the preference for brownfield sites over greenfield development, explaining that DES has greater familiarity with existing sites and that necessary infrastructure is already in place.
- She added that the New Hampshire Supreme Court has called for a clearer definition of “landfill shortfall.” She stated that, in HB 1622, the bill offers what she views as a reasonable compromise by allowing DES to grant approval if a developer can adequately demonstrate such a shortfall.
- She also noted that she wished representatives from Waste Management had been present, as they had worked closely with both the company and DES on these issues. She explained that the bill relies on readily available data and considers capacity at other sites.
- She suggested that the state may only need one new greenfield landfill over the next 100 years, emphasizing the importance of ensuring that any such site is located appropriately.

Susan Richman, Durham

- Ms. Richman said she was there because average citizens do pay attention to these bills and she wanted to express her support for the bill.
- She explained that the Solid Waste Working Group has been working to reduce the amount of waste produced. She added that this legislation is a bipartisan initiative aimed at developing an inventory of existing resources and current practices. It is a sensible first step in getting close to solving the landfill issue.

Mike Wimsatt, Waste Management Division NHDES

- Mr. Wimsatt stated that the Department was neutral on the bill, however he offered several observations and recommendations.
- He noted that the current version is significantly different from the bill as originally introduced. The original proposal was more expansive and carried a substantial fiscal impact, whereas the amended version, and its revised fiscal note, now reflects no fiscal impact.
- He pointed to Section 2, lines 9-19, which modifies the requirement to demonstrate a capacity shortfall over at least half the number of years of operation. He expressed concern that an existing landfill might need to close temporarily in order to obtain approval for additional capacity, including meeting statutory requirements to demonstrate a public benefit.
- He explained that if a landfill that has been operating for many years and seeks to expand must plan over a 20-year period, but cannot exceed that timeframe. As a result, a facility might be able to obtain a permit but be unable to operate because it would not meet the statutory requirements. For example, if a landfill

were to close in 2030 but a capacity shortfall is not projected until 2042, they would need to close for two years in order to meet that “half of the years requirement”. He said the situation becomes confusing and overly complex.

Senator Watters said this issue gets to the heart of his concern with the language in line 19. He asked whether there is a way to revise the language to address both the problem and the department’s intent.

Mr. Wimsatt stated that the issue is tied to the “half of the years” requirement, suggesting that if this were changed, it could resolve part of the problem. However, he noted that existing landfills may require a different standard. He referenced Representative Germana’s testimony, which indicated that the issue had been litigated up to the state Supreme Court, and that the decision suggested the Department of Environmental Services (DES) has broad latitude in interpretation. He cautioned that while DES has historically interpreted the statute broadly, introducing a quantitative standard could lead to unintended consequences and potentially undermine the policy preference for expanding existing facilities over developing new ones.

- He continued to say that, on page 1, Section 3, line 24, the bill establishes a preference for existing facilities. However, it also requires that if a developer seeks to pursue a greenfield site, they must justify that choice in comparison to a list maintained by DES. He said this creates additional confusion, as the DES list is likely to be limited, consisting of a small number of former municipally operated, closed facilities that may be suitable candidates.
- He added that most existing facilities are not good candidates for expansion, and municipalities would likely have little interest in pursuing such projects. As a result, the list would effectively consist of existing facilities that a developer may not own or have access to, along with a diminishing number of previously closed municipal landfills that have been evaluated.

Senator Watters asked for clarification about line 24.

Mr. Wimsatt stated that line 24 directs the agency to give preference to the expansion of existing landfills over the development of brownfield sites, and secondarily to give preference to brownfield sites. He noted that a greenfield application may only be submitted after a developer has reviewed and justified their site selection with reference to a list developed by the department. He wanted to point out the bill is not doing what originally intended because it was amended.

Senator Rosenwald asked if she understood correctly that, three years ago, there was a need to define “need,” since it could otherwise be interpreted as any number of days. She noted that, in the prior year’s HB 2, the state established a policy preference for expanding existing landfills over developing new ones. She added that this bill does not prohibit new landfills, but instead requires that there be no pending applications for expansion of existing facilities or development of brownfield sites before a greenfield application proceeds. She emphasized that a developer is only required to

explain their reasoning, and observed that this appears to give the department significant latitude.

Mr. Wimsatt responded that the final section of the bill is not as effective as originally intended. He added that the department is not opposed to that section and that it does not impose a significant burden on any party.

Senator Rosenwald asked whether the bill requires a developer seeking to build a new landfill to first ensure that there are no pending applications for either the expansion of existing facilities or the development of brownfield sites. She expressed uncertainty about the language and asked whether both conditions must be met.

Mr. Wimsatt responded that this was not how he interpreted the bill. In his reading, a developer proposing a new greenfield landfill is not necessarily prohibited from filing an application simply because other applications are pending. Rather, he explained that if there are competing applications covering the same time period and providing the same amount of capacity, and neither independently satisfies the public benefit requirements, the department would be required to give preference to the expansion of an existing landfill over the development of a new greenfield facility.

Senator Rosenwald asked even if the new landfill is on a brownfield site.

Mr. Wimsatt said yes because expansions are given first priority and brownfields are given second order of preference.

Senator Watters questioned whether the language in line 19 is necessary. He asked that, if it is retained, whether it might be revised to reference a five-year projected shortfall and what specific trigger would initiate that determination. He also asked whether additional flexibility should be incorporated.

Mr. Wimsatt explained that the primary difference between subsections (e) and (f) reflects the sponsor's intent to distinguish between existing landfills and new facilities. For an existing landfill to meet the public benefit requirement, it must demonstrate that it will address a shortfall for at least half of the projected years of operation. If that requirement is met, the facility may begin operating. However, a new landfill must not only meet the same time-based requirement but also cannot begin operating until the identified need actually exists. The speaker noted that this distinction could create timing challenges, particularly given that the application review process can take multiple years.

Senator Watters said the discussion gets at his concern. He noted a scenario in which an applicant spends a long period of time meeting the criteria and demonstrating that there will be a capacity shortfall. At that point, expansions may already have a certain capacity, and a shortfall may still be anticipated. However, he described a situation where another applicant moves more quickly and proposes an expansion, and if that application is approved sooner, it could effectively displace or delay the newer project that has been underway, as the expanded capacity would come online first and change the underlying assumptions.

Mr. Wimsatt responded that it was possible, particularly depending on whether a permit had already been issued, as that would influence the public benefit analysis.

Senator Watters said he supports the intent of the bill and believes it is a good and necessary policy, but he expressed concern about potentially creating a system that could become unworkable in practice.

Mr. Wimsatt responded that, to address the concern with line 19, one possible approach, would be to apply the same standard to both existing landfills and new greenfield landfills. In that case, a single paragraph could cover both, stating that it applies to an applicant seeking to expand or site a new landfill, using the same “half of the years” public benefit criterion. Under that approach, a new landfill would be held to the same public benefit standard as an expansion of an existing facility.

Senator Watters asked whether, even with that change, the underlying policy preference for expansion over new landfills would still remain.

Mr. Wimsatt confirmed that it would not change that preference.

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Date Hearing Report completed: April 17, 2026