

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1189-FN, establishing a solid waste site evaluation committee.

Hearing Date: April 16, 2026

Time Opened: 1:00 p.m.

Time Closed: 1:49 p.m.

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

Members of the Committee Absent : Senator McConkey

Bill Analysis: This bill establishes a solid waste site evaluation committee.

Sponsors:

Rep. Bixby

Rep. J. Aron

Rep. Barbour

Rep. N. Germana

Rep. Gruber

Rep. Haskins

Rep. Potenza

Rep. J. Sullivan

Sen. Rochefort

Who supports the bill: 56 Individuals signed in Support of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: None

Summary of testimony presented:

Representative Peter Bixby, Strafford 13

- Representative Bixby explained that the bill is intended to address gaps in the current regulatory framework by refining its structure and enforcement mechanisms.
- He stated that one of the key components of the bill is its declaration of purpose. The goal is to establish a siting evaluation committee that can review large solid waste projects in a more comprehensive way than the current standard permitting process allows. While the Department of Environmental Services has significant regulatory authority, the bill is designed to ensure that broader impacts, particularly those outside DES's direct purview, are also formally considered.
- He emphasized that landfill projects inherently involve both benefits and burdens. The purpose of the SEC is to weigh those factors and determine

whether the benefits of a proposed project outweigh its impacts. The bill includes multiple provisions intended to make that balancing test clear and enforceable.

- Representative Bixby noted that the burden of such projects is not limited to the host municipality but extends to surrounding communities and, in some cases, the state as a whole. That's why the bill adopts a broader definition of "affected community," encompassing not just the host town but also neighboring municipalities.
- He clarified that the bill applies to major solid waste facilities, while exempting certain operations such as food waste facilities and municipally operated sites.
- He explained that the structure of the SEC committee would consist of seven members. The chairperson would be appointed by the Governor, and the membership would include two commissioners along with additional members selected based on relevant expertise. The committee's responsibilities would include evaluating proposed projects, setting conditions for approval, and overseeing enforcement-related matters.
- The bill also establishes specific prohibitions and restrictions, along with a defined approval process. He highlighted that, under the default framework, a certificate of site approval must be obtained before other permits are finalized, although some processes may occur concurrently. This approach is intended to prevent applicants from incurring the full cost of permitting if a project is ultimately deemed unsuitable at the certificate stage.
- He noted an exception for projects already under review at the time the legislation takes effect. In those cases, existing permitting processes may continue before certificate approval is finalized.
- He further explained that approval of a certificate is not guaranteed for any specific project, including those proposed by Waste Management. Applicants may propose alternative sites as part of their application, allowing flexibility if issues arise with a preferred location.
- Representative Bixby also stressed the importance of incorporating outside expertise into the review process. The bill requires public information sessions prior to formal hearings, ensuring opportunities for early public engagement. If a proposal fails to meet statutory requirements, the committee has the authority to deny certification based on findings from relevant state departments and criteria outlined in RSA 149-M:9, IX, including standards related to integrity and capability.
- He described the structured public hearing process outlined in the bill. He noted that the Attorney General would appoint an independent public advocate to represent the public interest, though individuals and groups may also

participate directly. Ultimately, the SEC would decide whether to issue a certificate based on the criteria and objectives established in the chapter.

Senator Pearl asked whether it was fair to say that the bill uses the same language as HB 707.

Representative Bixby responded that he had not conducted a side-by-side comparison but believed the bill is approximately 80–90% consistent with prior language.

Senator Pearl noted that the current version appeared to expand considerations related to human health that goes through SWAC and removes provisions allowing the state to override local contracts. He asked if that was correct.

Representative Bixby confirmed that the bill focuses on balancing harms and benefits and that one of the most significant changes was the removal of language allowing the state to override local contracts. He explained that there is discomfort with that concept, drawing a parallel to similar concerns reflected in Article 10 of the state constitution. He indicated that he does not see a workable compromise that would allow for overriding local control, though the overall mechanics of the bill remain largely the same.

Senator Watters pointed to language on page 4, line 5, as well as provisions on pages 10 through 12, and raised concerns about the term “adjudicate.” He questioned what that would mean in practice, particularly in relation to Public Utilities Commission-style hearings, legal proceedings, and staffing demands. He expressed concern that the process outlined in the bill could require significant legal and administrative resources and asked for clarification.

Representative Bixby responded that earlier sections provide a summary of the committee’s duties, while the later sections describe how those duties would be carried out. He stated that he is open to revising the language to improve clarity and address those concerns in regards to the phrasing of “adjudicate”.

Senator Watters suggested that the committee should not have adjudicative authority and described the language as overly broad. He indicated that such functions may be more appropriate for the Department of Environmental Services.

Representative Bixby reiterated that the intent was to establish a clear process and that he is not committed to the current wording. He expressed openness to modifying or removing the term “adjudicate” if needed.

Senator Rosenwald raised a question about the conflict-of-interest provision on page 2, which states that individuals affiliated with entities that operate or seek to operate waste disposal facilities may be disqualified from serving on the committee. She asked whether this would exclude individuals who work in the industry outside of New Hampshire.

Representative Bixby explained that the intent is to avoid conflicts of interest involving individuals closely tied to an applicant or its competitors. He emphasized that the goal is to ensure impartiality and that he is open to refining the language,

provided it clearly excludes anyone with a direct or active interest in a pending application.

Senator Rosenwald followed up by asking whether someone working for a company in another state would still be disqualified.

Representative Bixby said that, as written, the provision could exclude individuals employed by large, multi-state or multinational companies, even if their work is outside New Hampshire. He added that the intent is for committee members to have relevant knowledge of regional solid waste issues, and that this language could be revisited.

Senator Rosenwald asked about the requirement on page 2 that a member have experience in “environmental science,” noting that the term is quite broad.

Representative Bixby responded that the intent was to require environmental expertise more generally and indicated he would be open to revising the language for greater precision.

Tom Tower, NCABC

- Mr. Tower expressed support for the legislation, noting that there has been significant back-and-forth in recent years over landfill reform. He stated that this bill represents a different approach and has the potential to succeed, particularly if some level of compromise is reached to resolve the issue and move it forward.
- He emphasized that the bill has support from the House as well as the Department, which he suggested strengthens its viability.
- He explained that large solid waste facilities have far-reaching impacts beyond waste management alone, including effects on local economies and surrounding communities. Because of these broader implications, he argued that such projects warrant a more structured and comprehensive evaluation process.
- He noted that the bill integrates technical considerations with environmental compliance and community impact, ensuring that all relevant factors are reviewed together rather than in isolation.
- He highlighted the importance of creating a transparent and predictable process, where applicants clearly understand the requirements and standards they must meet. He concluded by urging the committee to support the legislation.

Mike Wimsatt, Department of Environmental Services

- Mr. Wimsatt said that Department supports the bill. He noted that it is substantially similar to language previously proposed by the Governor in the prior session.
- He acknowledged that the siting, construction, and operation of major solid waste facilities can have impacts that extend beyond the traditional factors

considered by DES when reviewing permit applications. He explained that the bill would establish a committee to consider these broader impacts and benefits, as outlined by Representative Bixby.

- He stated that while these additional factors are important, many fall outside the Department's core expertise and regulatory authority. For that reason, the Department believes the proposed committee would provide an important platform for broader participation and allow for a more comprehensive evaluation of such projects.
- He also suggested a technical amendment to the bill. Referring to page 2, line 9, he noted that the term "major solid waste disposal facility" is not entirely accurate, as the definition includes not only disposal facilities like landfills and incinerators but also collection, storage, separation, treatment, and processing facilities. He recommended removing the word "disposal" throughout the bill to better reflect its scope.

Senator Watters then raised a question about language on page 4, line 5, specifically the use of the term "adjudicate," and whether it implies a broader legal role for the committee than intended.

Mr. Wimsatt responded that the term initially stood out to him as well. He interpreted it as referring to enforcement of certificate conditions but acknowledged uncertainty about how that process would function in practice. He noted that some certificate conditions could overlap with existing solid waste permit requirements, which DES is better positioned to monitor and enforce. For other conditions, the bill appears to direct the Department to notify the committee of noncompliance, but the process for resolving such issues is not clearly defined.

Senator Watters expressed concern that the term "adjudicate" could imply a formal legal process similar to proceedings before the PUC, including hearings, legal representation, and appeal rights. He suggested that this language might unintentionally grant broader authority than intended.

Mr. Wimsatt agreed that clarification would be helpful. He said the committee clearly has authority to hold hearings and decide whether to issue a certificate, but its role in enforcement matters is less clear. He agreed that replacing "adjudicate" with more precise language, such as directing the committee to "address enforcement matters consistent with" existing provisions could resolve the ambiguity.

Representative Kelley Potenza, Strafford 19

- Representative Potenza noted that she has worked on this issue for many years and that her committee has spent significant time refining and strengthening the language based on past efforts.
- She expressed concern that the Department does not always have the full range of expertise needed to evaluate large, complex landfill proposals. She explained

that this bill helps address that gap by incorporating outside experts into the review process.

- She also emphasized that the legislation is not intended to override or disrupt existing local contracts, underscoring the importance of securing buy-in from host communities.
- She pointed out that Waste Management, which operates the largest landfill in the state, supports the bill. She suggested that this reflects an understanding of the public benefit considerations involved.
- She had concerns about expanding government but argued that, in this case, a more structured and comprehensive process is both necessary and appropriate given the scale and impact of these facilities.

Henry Veilleux, Waste Management

Senator Rosenwald asked about the difference between this bill and HB 707, specifically regarding whether the state would have the authority to override local contracts or local decision-making. She also asked how the landfill operator viewed that issue.

Mr. Veilleux said that any future application process would continue to involve close coordination with host communities. He emphasized that the company has consistently worked with towns and cities and intends to maintain that approach moving forward.

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Date Hearing Report completed: April 20, 2026