

HB 707-FN - AS AMENDED BY THE SENATE

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HOUSE BILL

707

AN ACT establishing a solid waste site evaluation committee.

SPONSORS: Rep. Potenza, Straf. 19; Rep. B. Boyd, Hills. 12; Rep. N. Germana, Ches. 15; Rep. Haskins, Rock. 11; Rep. S. King, Coos 4; Rep. J. Aron, Sull. 4; Rep. Noble, Hills. 2; Rep. Burroughs, Carr. 2; Rep. Gruber, Ches. 16; Rep. Schmidt, Straf. 14; Sen. Fenton, Dist 10; Sen. Ricciardi, Dist 9; Sen. Rochefort, Dist 1

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill establishes a solid waste site evaluation committee.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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

8 VI. "Committee" means the solid waste evaluation committee established by this
9 subdivision.

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

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

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

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

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

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

23 149-M:67 Solid Waste Evaluation Committee Established.

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

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

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

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

33 (d) Four members and, when required by RSA 149-M:68, an alternate member,
34 appointed by the governor with the consent of the executive council, including a member who serves
35 on a local conservation commission, a member who has expertise in the private waste management
36 industry, a member with expertise in municipal planning, and one member with expertise or
37 experience in environmental protection, environmental health, or environmental science.

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

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

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

11 III. The committee shall be administratively attached to the department of environmental
12 services.

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

14 (a) Serve as presiding officer.

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

16 (c) Establish, with the consent of the committee, the budgetary requirements of the
17 committee.

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

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

21 149-M:68 Members Appointed By The Governor With The Consent Of Council.

22 I. Members and alternate members appointed under RSA 149-M:67, I(c) and (d) shall serve
23 4-year terms and until their successors are appointed and qualified. Any member chosen to fill a
24 vacancy occurring other than by expiration of a term shall be appointed for the unexpired term of the
25 member who is succeeded.

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

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

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

35 149-M:69 Administrator and Other Committee Support. The administrator shall provide
36 support to the committee. If the administrator is not available or the position is vacant, the
37 committee may hire an independent contractor at the expense of the applicant. The administrator

1 shall be under the supervision of the chairperson when performing duties for the committee. The
2 administrator shall be compensated for work performed for the committee as set forth in RSA 149-
3 M:85. The administrator, or chairperson in the absence of an administrator, with committee
4 approval, may engage additional technical, legal, or administrative support to fulfill the functions of
5 the committee as necessary.

6 149-M:70 Powers and Duties of the Committee; Rules.

7 I. The committee shall:

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

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

11 (c) Adjudicate enforcement matters.

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

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

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

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

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

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

28 V. In any matter before the committee, the presiding officer, or a hearing officer designated
29 by the presiding officer, may hear and decide procedural matters that are before the committee,
30 including procedural schedules, consolidation of parties with substantially similar interests,
31 discovery schedules and motions, and identification of significant disputed issues for hearing and
32 decision by the committee. Undisputed petitions for intervention may be decided by the hearing
33 officer and disputed petitions shall be decided by the presiding officer. Any party aggrieved by a
34 decision on a petition to intervene may within 10 calendar days request that the committee review
35 such decision. Other procedural decisions may be reviewed by the committee at its discretion.

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

1 149-M:71 Prohibitions and Restrictions.

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

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

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

26 149-M:72 Application for Certificate.

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

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

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

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

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

3 (c) Describe how the proposed facility satisfies the criteria listed under RSA 149-M:11,
4 III.

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

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

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

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

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

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

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

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

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

33 IV. To the extent any information provided in the application was submitted and considered
34 by a state agency as part of its permitting evaluation and decision under RSA 149-M:71, III, the
35 applicant shall specify what information was so considered and the statutory and regulatory
36 authority for that agency's consideration of the information.

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

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

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

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

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

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

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

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

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

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

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

31 149-M:73 Disclosure of Ownership. Any application for a certificate, or for change in ownership
32 and transfer of certificate, shall be signed and sworn to by the person or executive officer of the
33 association or corporation making such application and shall contain the following information:

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

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

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

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

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

7 VI. A statement of assets and liabilities of the applicant and other relevant financial
8 information of such applicant.

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

14 149-M:74 Application and Filing Fees.

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

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

24 (a) Application fee for a major solid waste disposal facility: \$20,000 base charge and
25 \$1,000 per additional 10,000 tons/year throughput in excess of 100,000 tons per year.

26 (b) Filing fees for administrative proceedings:

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

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

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

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

32 IV. The committee shall review and evaluate the application fees and filing fees in the fee
33 schedule in subparagraphs II(a) and (b) at least once each year. The committee may increase any
34 amount in the fee schedule by no more than the increase in the consumer price index from the prior
35 year, provided that any such increase shall occur not more frequently than once during any 12-
36 month period. Modifications to the fee schedule shall be posted on the committee website, with a
37 link prominently displayed on the home page.

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

4 149-M:75 Counsel for the Public.

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

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

14 149-M:76 Public Hearing; Studies.

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

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

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

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

26 V. Subsequent public hearings shall be in the nature of adjudicative proceedings under RSA
27 541-A and shall be held in the municipality in which the proposed facility is to be located or in
28 Concord, New Hampshire, as determined by the committee. The committee shall give adequate
29 public notice of the time and place of each subsequent hearing.

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

33 VII. The committee shall consider and weigh all evidence presented at public hearings and
34 shall consider and weigh written information and reports submitted to it by members of the public
35 prior to the closing of the record of the proceeding. The committee shall provide an opportunity at
36 one or more public hearings for comments from the governing body of each affected municipality and
37 residents of each affected municipality. The committee shall consider, as appropriate, prior

1 committee findings and rulings on the same or similar subject matters, but shall not be bound
2 thereby.

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

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

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

16 149-M:77 Judicial Review. Decisions made pursuant to this chapter shall be appealed in
17 accordance with RSA 541.

18 149-M:78 Monitoring and Enforcement.

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

32 II. Whenever the department administratively determines, on its own or in response to a
33 complaint, that any term or condition of any certificate issued under this chapter or prior law is
34 being violated, it shall, in writing, notify the certificate holder of the specific violation and order the
35 person to immediately terminate the violation. If, 60 days after receipt of the order, the person has
36 failed or neglected to terminate the violation or be compliant in addressing the violation consistent
37 with direction from the department, the department shall notify the committee, which may suspend

1 the person's certificate. In addition to suspension, if, after 60 days of receipt of the order, the person
2 has failed or neglected to terminate the violation, the committee may impose a fine not to exceed
3 \$5,000 per day until the violation is corrected. Except for emergencies, prior to any suspension or
4 imposition of a fine, the committee shall give written notice of its consideration of suspension or
5 imposition of a fine and of its reasons therefor and shall provide opportunity for a prompt hearing.

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

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

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

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

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

28 149-M:79 Records. Complete verbatim records shall be kept by the committee of all hearings,
29 and records of all other actions, proceedings, and correspondence of the committee, including
30 submittals of information and reports by members of the public, shall be maintained, all of which
31 records shall be open to the public inspection and copying as provided for under RSA 91-A.
32 Committee records regarding pending applications for a certificate shall also be made available on
33 the committee's website unless such records were submitted under seal and are exempt from public
34 disclosure under RSA 91-A.

35 149-M:80 Temporary Suspension of Deliberations. If the committee, at any time while an
36 application for a certificate is before it, deems it to be in the public interest, it may temporarily
37 suspend its deliberations and time frames established under this chapter.

1 149-M:81 Findings and Certificate Issuance.

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

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

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

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

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

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

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

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

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

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

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

35 VII. There shall be a rebuttable presumption that applications for landfill expansions shall
36 satisfy the criteria in subparagraphs III(a), III(b), and III(d). The burden of producing evidence to

1 rebut this presumption rests with the party challenging the action. This presumption may be
2 rebutted by a preponderance of the evidence.

3 149-M:82 Penalties.

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

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

11 149-M:83 Severability. If any provision of this chapter, or application thereof to any person or
12 circumstance is held invalid, the invalidity shall not affect other provisions or applications of the
13 chapter which can be given effect without the invalid provisions or applications, and to this end, the
14 provisions of this chapter are severable.

15 149-M:84 Fund Established; Funding Plan. There is hereby established in the office of the state
16 treasurer a nonlapsing, special fund to be known as the solid waste evaluation committee fund. All
17 application and other filing fees received by the committee under this chapter shall be deposited in
18 the fund. All moneys in the fund shall be continually appropriated to the committee and shall be
19 used to pay for operating costs of the committee and the partial salary of the administrator. If the
20 administrator position is vacant, the fund may be used to pay an independent contractor to perform
21 those duties. Notwithstanding any other provision of law, the committee may engage the
22 department for additional technical, legal, or administrative support to fulfill the requirements of
23 this chapter, the cost of which shall be charged directly to the applicant or major solid waste disposal
24 facility owner.

25 149-M:85 Compensation and Reimbursement.

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

31 II. State agencies represented on the committee shall be reimbursed for major solid waste
32 disposal facility proceeding time and expenses incurred by their respective members or designees,
33 except that time spent for the first 5 full days of their participation with respect to any application or
34 other proceeding concerning a major solid waste disposal facility shall not be subject to
35 reimbursement. The rate of reimbursement to each respective agency shall be based on a pro rata
36 share of the employee's salary, benefits, and related costs.

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

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

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

11 149-M:86 Solid Waste Permit Applications Suspended. The department shall not issue any
12 permit approvals that authorize new capacity for major solid waste disposal facilities until rules are
13 adopted by the committee or until July 1, 2027, whichever is later.

14 2 New Subparagraph; Solid Waste Evaluation Committee Fund. Amend RSA 6:12, I(b) by
15 inserting after subparagraph (410) the following new subparagraph:

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

18 3 Effective Date. This act shall take effect 60 days after its passage.

HB 707-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT # 2025-3050s)

AN ACT establishing a solid waste site evaluation committee.

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	Indeterminable Increase \$10,000 to \$150,000	Indeterminable Increase \$10,000 to \$150,000
<i>Revenue Fund(s)</i>	Solid Waste Facility Site Evaluation Committee Fund			
Expenditures*	\$0	\$0	Indeterminable Increase \$10,000 to \$150,000 (SWFSECF)	Indeterminable Increase \$10,000 to \$150,000 (SWFSECF)
<i>Funding Source(s)</i>	Solid Waste Facility Site Evaluation Committee Fund(SWFSECF) and 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 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	Indeterminable Increase \$450,000 to \$750,000	Indeterminable Increase \$450,000 to \$750,000
Local Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill establishes a Solid Waste Facility Site Evaluation Committee to review and approve applications for major solid waste disposal facilities with proposed waste acceptance rates greater than 100,000 tons per year. The bill grants the committee exclusive authority over siting decisions for such facilities, establishes application and filing fees, creates a nonlapsing Solid Waste Facility Site Evaluation Committee Fund, and suspends certain solid waste permit approvals until committee rules are adopted or July 1, 2027, whichever occurs later. The bill

also requires certain landfill expansions to increase the value of services and per-ton fees paid to host municipalities.

The Department of Environmental Services states this bill establishes a schedule of application and filing fees for major solid waste disposal facility certificates. These fees would be deposited into a new nonlapsing Solid Waste Facility Site Evaluation Committee Fund and used to support the committee's review, hearing, and administrative activities. The Department estimates fee revenue would range \$10,000 to \$150,000 per application, beginning in FY 2028, depending on the number and complexity of applications received. These fees are expected to fund committee operations, including consultant, legal, and technical review costs. Additionally, this bill authorizes the committee to assess additional fees if review costs exceed the initial filing fee and allows the committee to request General Fund support if lawful expenditures exceed available fee revenues. As a result, state expenditures could increase; however, the amount and timing of any such expenditures are indeterminable.

The Department of Environmental Services states this bill would increase municipal revenues for host communities where landfill expansions are approved under the bill. The bill requires landfills approved for expansion to increase the value of existing free services and per-ton fees paid to the host municipality to an amount equal to at least \$2.50 per ton for all waste received as part of the expansion. The Department notes that two solid waste facilities currently provide host community benefits in the form of free services and per-ton payments. At the larger facility, the Department understands the current value of host community benefits already exceeds \$2.50 per ton and therefore would not be affected by the bill. At the smaller facility, the Department estimates the current value of host community benefits is approximately \$1.00 per ton. Assuming future annual waste receipts at the smaller facility of approximately 300,000 to 500,000 tons, and an additional \$1.50 per ton required to meet the statutory minimum, the Department estimates additional municipal revenues would range from approximately \$450,000 to \$750,000 per year, beginning in FY 2028. No additional municipal revenues are expected prior to FY 2028 due to the timing of committee review and certificate issuance.

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

Lastly, several dates in the bill appear to be outdated, including the July 1, 2025 permit application date, the July 1, 2026 rule adoption deadline, and the September 1, 2025 date for the first meeting of the Solid Waste Facility Site Evaluation Committee. The Department assumes these dates would be updated to align with the bill's effective date and implementation timeline.

AGENCIES CONTACTED:

Department of Environmental Services, Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association