HB 1145-FN - AS AMENDED BY THE HOUSE

28Mar2024... 1329h

2024 SESSION

24-2131
10/08

HOUSE BILL ***1145-FN***

AN ACT prohibiting the private ownership of landfills.

SPONSORS: Rep. Bixby, Straf. 13; Rep. Germana, Ches. 1; Rep. Rochefort, Graf. 1; Rep. Potenza, Straf. 19; Rep. Stapleton, Sull. 6; Sen. Altschiller, Dist 24; Sen. Fenton, Dist 10

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill prohibits new solid waste landfill permits in the state for facilities owned by any person other than the state of New Hampshire or a political subdivision thereof.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT prohibiting the private ownership of landfills.

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

1 New Section; Solid Waste Management; Limitation on Landfill Ownership. Amend RSA 149-M by inserting after section 10 the following new section:

149-M:10-a Limitation on Ownership of Landfill Facilities.

I. After the effective date of this section, no new landfill permits in the state shall be granted for facilities owned by any person other than the state of New Hampshire or a political subdivision thereof.

II. Any landfill owned by the state shall be contracted for management and operations by a private operator. Any landfill owned by a political subdivision may be contracted for management and operations by a private operator.

II-a. The contract between the state and operator of a publicly owned landfill shall address the relative liability of the parties in the event of a leak or other contamination resulting from operator mistakes or negligence.

III. Nothing in this section shall be construed to prohibit continued ownership and the expansion or modification of any landfill facilities on any site on which, as of December 1, 2023, a RCRA Subtitle D landfill exists that has been fully permitted and that is actively accepting waste. For the purposes of this section, the term "site" shall mean a single parcel or adjacent parcels, owned in its entirety by a landfill operator or its affiliates as of December 1, 2023, including a site where one or more public utility easements traverse the site; perennial water bodies traversing a footprint shall still be monitored in accordance with or exceeding United States Environmental Protection Agency regulations and guidelines.

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

LBA
24-2131
Amended 4/15/24

HB 1145-FN- FISCAL NOTE

AS AMENDED BY THE HOUSE (AMENDMENT #2024-1329h)

AN ACT prohibiting the private ownership of landfills.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
Revenue	$0	$0	$0	$0
Revenue Fund(s)	None			
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source(s)	General Fund			
Appropriations	$0	$0	$0	$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? [X] No
- Does this bill authorize new positions to implement this bill? [X] No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
County Revenue	$0	Indeterminable	Indeterminable	Indeterminable
County Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Revenue	$0	Indeterminable	Indeterminable	Indeterminable
Local Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The Department of Environmental Services states this bill would prohibit the issuance of new landfill permits to entities other than the State of New Hampshire or political subdivisions thereof. The Department assumes that allowable landfill permittees would include the state, county and municipal entities, and combinations thereof, including entities formed under RSA 53-B, Solid Waste Management Districts. The bill does not prohibit the Department from issuing permit modifications, including expansions, for RCRA Subtitle D landfills that are owned by private entities and that are actively receiving waste as of December 1, 2023.

The Department assumes no increased expenditures would be incurred for administration of RSA 149-M and the NH Solid Waste Rules because existing staff would absorb any work required to update and enforce regulations to reflect the revised statute. To the extent the state, county or municipal entities, including solid waste management districts, elect to become landfill permittees, they will become responsible for design, construction, operation, closure and post-closure care of a landfill. Such public entities will incur significant indeterminate expenditures. The Department assumes expenditures would begin within the next one to two years so that there would be sufficient time to identify a landfill site, design the landfill, obtain necessary approvals/permits, and construct the landfill such that it is ready to accept waste in order to address any shortfall in landfill capacity. Landfill permittees will likely accrue indeterminate revenues from waste tipping fees, but revenues would not be realized until the landfill begins operation. For public entities electing not to become a landfill permittee, the Department anticipates increased expenditures for transportation and waste tipping fees, with no increase in revenue, due to a lack of locally available waste disposal options.

The New Hampshire Municipal Association indicates, according to Environmental Research & Education Foundation (EREF) data, the average tip fee of privately owned facilities was greater compared to publicly owned facilities. Private facilities averaged $65.45, 17% greater than the $53.96 average for public facilities. Fees at publicly owned facilities observed little change since 2017, rising 4.7% from $51.53. Fees at privately owned facilities have observed a larger change, increasing 23% from $53.18 to $65.45.

Based on the information available, it is unlikely that most New Hampshire municipalities could reasonably find financing to engage in the opening and operation of a new landfill to service their own population. It is not possible to determine, with the information available, what financing may be available for regional approaches or whether such approaches are reasonable solutions to increasing landfill capacity. Nor is it possible to estimate the necessary tipping fee to offset the costs of operating said solid waste disposal facility.

While it is possible to determine that costs of solid waste disposal will rise, with tipping fees likely rising similarly to the CPI, that assumes that capacity is not an issue and adequate out-of-state landfill capacity can be sourced as in-state capacity decreases and/or in-state capacity increases as a consequence of newly constructed state or municipal landfills. At present, the costs and revenues are indeterminable.

AGENCIES CONTACTED:

Department of Environmental Services and New Hampshire Municipal Association