HB 602-FN - AS AMENDED BY THE HOUSE

3Jan2024... 2333h
3Jan2024... 0042h

2023 SESSION

23-0725
08/10

HOUSE BILL ***602-FN***

AN ACT relative to landfill siting.

SPONSORS: Rep. Simon, Graf. 1; Rep. Mooney, Hills. 12; Rep. Rung, Hills. 12; Rep. Rochefort, Graf. 1

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill establishes additional requirements for siting of landfills as permitted by the department of environmental services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to landfill siting.

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

1 New Paragraph; Permit Required; New Landfills. Amend RSA 149-M:9 by inserting after paragraph XV the following new paragraph:

XVI.(a) In revising administrative rules under Env-Sw 804, the department shall bifurcate the permit process for new solid waste landfills by creating a "preliminary application phase" for each required permit. The department shall instruct, by rule, applicants for new landfills to present within the preliminary permit application enough information for the department to appraise whether the proposed location violates any of the prohibitive locational criteria that the department shall develop during such rulemaking. An application that does not pass such a preliminary screen shall be returned to the applicant without prejudice so that the applicant may choose an alternative location and present a revised preliminary application later.

(b) The department shall, in its discretion and informed by a public hearing and subsequent written public comment, adopt one or more prohibitive locational criteria, thereby establishing certain sites that it will judge as wholly inappropriate for constructing a new municipal solid waste landfill. Such criteria may consider:

(1) Whether soils at the site are permeable, based on quantitative and reasonable-worst-case measurement of hydraulic conductivity or other parameters, such that spills or liner failures would rapidly contaminate nearby surface waters.

(2) Whether bedrock at the site is sufficiently fractured that leaks from the landfill would rapidly spread throughout the local environment.

(3) Whether the proposed location is sufficiently far from major sources of waste generation that trucks carrying waste to and from the site would needlessly add to greenhouse gas emissions, highway congestion, traffic congestion, traffic accidents, or other negative impacts.

(4) Whether the proposed site lies over a significant sand and gravel aquifer.

(5) Whether the proposed site is located in, or over, a coastal sand dune system, a prime wetland, or other special habitat.

(6) Whether all or part of the proposed site is undisturbed forest, wetland, or open space, as opposed to a brownfield where environmental impacts have already occurred or are occurring.

(7) Any other factors the department, in its discretion, considers worthwhile.

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

LBA
23-0725
Amended 1/23/24

HB 602-FN- FISCAL NOTE

AS AMENDED BY THE HOUSE (AMENDMENTS #2023-2333h and #2024-0042h)

AN ACT relative to landfill siting.

FISCAL IMPACT: [X] State [ ] County [ ] 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	$0	$0	$0
County Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill establishes additional requirements for siting of landfills as permitted by the Department of Environmental Services. The Department indicates this bill, as amended, would require the Department to:

- Adopt rules that bifurcate the application process for landfills, specifically requiring:
  - A "preliminary application phase" in which the applicant would submit a "preliminary permit application" relative to landfill siting, and

- The Department to "appraise" whether the proposed location violates any of the "prohibitive locational criteria" regarding landfill siting prior to accepting an application for the landfill itself; and
- Adopt rules that establish "prohibitive locational criteria" for landfill siting.

If the Department appraises a location and finds it does not meet the prohibitive locational criteria, it is to return the application without prejudice and the applicant may seek a new location for the landfill. The Department assumes, if the application does not meet the prohibitive locational criteria, the applicant would not be allowed to seek approval of a modified proposal at the same location, but must seek an alternative location.

The Department states the bill would result in a reallocation of resources within the Department, delaying and impacting other work. A reallocation of staff time would be required to undertake and complete the rulemaking process. With regard to implementation, increased staff time will be required to manage the divided application process. Assuming existing staff could manage the increased workload through time reallocation and delays in other work priorities, there would be no increase in the Department's expenditures for administration. The Department assumes there would be no change in the current application fees or in revenue to the State.

The Department states any State, county, or local government proposing to own or operate a landfill could anticipate an indeterminable increase in expenditures to site a landfill due to the additional application process and the cost to demonstrate compliance with location criteria. As waste generators, the State, counties and local governments would anticipate an increase in waste disposal costs due because of the increased costs for siting a landfill. Such increases are indeterminable because many different factors affect tipping fees.

AGENCIES CONTACTED:

Department of Environmental Services