

SB 180-FN - AS AMENDED BY THE HOUSE

03/06/2025 0507s

5Jun2025... 1748h

5Jun2025... 2474h

2025 SESSION

25-0990

02/05

SENATE BILL

180-FN

AN ACT

designating Coos county as a distressed place-based economy and requiring the department of environmental services to revise the rules for proposed new landfills.

SPONSORS:

Sen. Rochefort, Dist 1; Rep. Durkin, Coos 1; Rep. S. King, Coos 4; Rep. A. Davis, Coos 2; Rep. Ouellet, Coos 3; Rep. Tierney, Coos 1

COMMITTEE:

Executive Departments and Administration

AMENDED ANALYSIS

This bill designates Coos County as a distressed place-based economy and requires commissioners of state agencies to consult with county commissioners before making regulatory decisions that would affect Coos County.

The bill also requires the department to modify rules to avoid significant harms to human health and the environment, and changes the enabling statute of the department of environmental services solid waste division to require the department to consider health and the environment when making future rules.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

162-U:2 Regulatory Principle for Department Commissioners. Commissioners of state departments shall include county government input for any Coos County decisions impacting its place-based economy. Collaborative regulatory approaches with existing regional economic objectives shall minimize unintended economic impacts. To protect the health, safety, and economic welfare of Coos' interdependent place-based economy, agencies shall seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on local governments. Failure to recognize differences in the scale and resources of these entities adversely

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1 affects competition in the marketplace, discourages innovation, and restricts productivity
2 improvements to the economic landscape.

3 3 Repeal. RSA 162-U, relative to the designation of Coos County as a distressed place-based
4 economy, is repealed.

5 4 Statement of Purpose. The general court finds that protecting the health and safety of New
6 Hampshire citizens, drinking water sources, and our environment, including drinking water wells,
7 perennial rivers, lakes, and coastal waters, from contamination is of utmost public interest.
8 Therefore, based on legislative intent informed by public and expert testimony from New Hampshire
9 citizens and key stakeholders, the department of environmental services' 800 rules for proposed new
10 landfills are found to be insufficiently protective in certain sections. The following provisions provide
11 the department with direction, policy changes, and purpose in rulemaking.

12 5 New Subparagraph; Waste Management Rules. Amend RSA 149-M:7 by inserting after
13 paragraph XV the following new paragraph:

14 XV-a. Relative to the safe management of solid waste. Such rules shall promote the
15 hierarchy established under RSA 149-M:3, and shall develop and enforce siting, design, operation,
16 and closure requirements.

17 6 New Paragraphs; Groundwater Protection. Amend RSA 149-M:9 by inserting after paragraph
18 XV the following new paragraphs:

19 XVI. No permit shall be issued by any division of the department for the siting of a new
20 landfill if any part of the actual solid waste disposal area is proposed to be located sufficiently close
21 to any existing drinking water well, perennial river, lake, or coastal water of New Hampshire, as
22 defined in RSA 483-B:4, XVI, such that groundwater on the landfill site would be able to reach the
23 water body within 5 years of migrating off-site due to any leak, spill, or other failure.

24 XVII.(a) The department shall establish a site-specific setback distance for any proposed
25 new landfill from any drinking water wells, perennial river, lake, or coastal water of New
26 Hampshire, as defined in RSA 483-B:4, XVI. The setback distance shall be sufficient to prevent any
27 contaminated groundwater at any part of the landfill footprint or leachate storage or piping
28 infrastructure from reaching any existing drinking water wells, perennial river, lake, or coastal
29 water of New Hampshire within 5 years. The setback distance shall be calculated as follows:

30 (1) The applicant shall hire a hydrogeologist who has never worked with or been
31 contracted through a third party with any applicant's current or previous projects, at the applicant's
32 expense, to estimate based upon adequate and representative on-site field testing of both the landfill
33 footprint and leachate storage or piping infrastructure, the estimated velocity of groundwater in both
34 surficial geological deposits and bedrock. The velocity shall be estimated by calculating the 95th
35 percentile upper confidence limit of the mean measured rate, using the formula recommended by the
36 United States Environmental Protection Agency at EPA 600-R-97/006.

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(2) The 5-year distance-of-travel estimate shall be calculated by multiplying the velocity, in units of feet per year, by 5.

(3) The setback from any existing drinking water well, perennial river, lake, or coastal water of New Hampshire shall be the greater of the 5-year distance-of-travel estimate calculated in subparagraph (2) or 1,500 feet.

(b) No permit shall be issued by any division of the department for the siting of a new landfill that fails to conform to the setback distance as calculated using the method set forth in subparagraph (a).

(c) In this section, "new landfill" excludes any expansion or modification of any landfill facilities on any site where, as of January 1, 2025, a RCRA Subtitle D landfill exists that has received all permits necessary to operate at present and is currently operating under such permits at the time it files an application to expand.

(d) In this section, "site" means a single parcel or adjacent parcels, owned in its entirety by a landfill operator or its affiliates as of January 1, 2025, including a site where one or more public utility easements traverse the site.

XVIII. The department shall not issue a permit for a new landfill or landfill expansion unless the applicant conducts subsurface investigations in sufficient numbers and locations to properly describe the surficial stratigraphy and the bedrock beneath and adjacent to the proposed solid waste boundary, at least to the depth of any aquifers currently used to provide drinking water to residents. Pump tests shall be conducted at selected locations as needed to evaluate aquifer yield and connectivity of bedrock fractures using the department's database of the location and depth of private drinking water wells.

XIX. All landfill facilities shall have at least one employee or contracted personnel at the site 24 hours a day, 365 days per year, beginning from the date the landfill begins accepting waste and continuing until final closure.

XX. No permit shall be granted for a landfill unless undisturbed in-situ soils for 20 feet immediately beneath the footprint and underneath all leachate storage and transfer infrastructure have a maximum saturated hydraulic conductivity of 1×10^{-4} centimeters per second (cm/sec) or less. If the above in-situ soils do not meet the maximum hydraulic conductivity criterion of 1×10^{-4} cm/sec, no amount of imported soil can overcome such deficiency, and the tract shall be deemed impermissible for use as a landfill.

XXI. No permit shall be granted for a landfill unless the subgrade below the liner consists of soil with a saturated hydraulic conductivity of 1×10^{-4} cm/sec or less.

XXII. All references to number-year storm events regarding solid waste landfill permitting requirements in relation to design, maintenance, leachate management, etc., shall have the value of a 100-year storm with a 50 percent margin of safety.

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1 XXIII. The department shall incorporate the "Ford Act" found at 40 C.F.R. 258 into landfill
2 permitting requirements, specifically the provision limiting the construction or establishment of
3 municipal solid waste landfills within 6 miles of certain smaller public airports.

4 7 Permit Denial. Amend the introductory paragraph of RSA 149-M:9, IX to read as follows:

5 IX. The department [~~may~~] **shall** deny a permit application under this section to a person if
6 any of the following applies:

7 8 Rulemaking. The introductory paragraph of RSA 149-M:7 is repealed and reenacted to read
8 as follows:

9 The commissioner shall have the responsibility and authority to adopt rules, under RSA 541-A,
10 that are necessary to protect the public health and the environment with an ample margin of
11 safety relative to this chapter, including rules relative to:

12 9 Effective Date.

13 I. Sections 1 -2 of this act shall take effect 60 days after its passage.

14 II. Section 3 of this act shall take effect July 1, 2045.

15 III. The remainder of this act shall take effect upon its passage.

SB 180-FN FISCAL NOTE
AS INTRODUCED

AN ACT designating Coos county as a distressed place-based economy.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures*	\$0	Indeterminable Increase		
Funding Source(s)	General Fund, Highway Fund, and Various Agency Funds			
Appropriations*	\$0	\$0	\$0	\$0
Funding Source(s)	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	Indeterminable		
County Expenditures	\$0	Indeterminable Increase		
Local Revenue	\$0	Indeterminable		
Local Expenditures	\$0	Indeterminable Increase		

METHODOLOGY:

This bill designates Coos County as a distressed place-based economy and requires commissioners of state agencies to consult with county commissioners before making regulatory decisions that would affect Coos County.

The Department of Administrative Services (DAS) asserts that the bill will lead to indeterminable expenditures due to the variable number of rules that may be modified. Furthermore, DAS anticipates that staff time required for the adoption of administrative rules will likely double, given that all DAS rules are applicable statewide. Additional staff time will be necessary for researching suitable partners in Coos County and gathering their feedback. DAS rules are primarily crafted to ensure state compliance with federal laws and regulations. To adhere to the bill's requirements, DAS would need to engage with county governments before implementing any changes.

The Department of Environmental Services (DES) has indicated that this bill would require the Department to seek input from the Coos County government for regulatory decisions. Furthermore, the bill would require DES to assess interdependent economies and economic development plans in Coos County prior to making any regulatory decisions. This necessitates additional staffing, as the current staffing lacks the expertise to interpret these economic development plans in their regulatory decision-making process. The impact depends on how "regulatory action" is defined. DES estimates an increase in expenditures ranging from more than \$500,000 to \$1,000,000 if the bill applies solely to permit applications. If the definition of regulatory actions is broader, the fiscal impact may exceed \$1,000,000.

The Department of Transportation states that this bill would increase Highway Fund costs associated with the possible need to hire a consultant for analysis, as well as delays in the approval or denial process for permit applications due to the following increased efforts. The permits with an economic impact include driveways, utility trenches and utility poles, snowmobiles, and OHRVs. The DOT would have to coordinate with Coos County for meetings, site visits, administrative work, as well as analysis of interdependent and/or economic development plans, and lastly to ensure decisions are compatible between agencies. The increase in expenditures is indeterminable.

The Fish and Game Department states that the fiscal impact of this bill is indeterminable as it lacks sufficient language, guidance, and definitions to determine how this would change Department operations. With the broad language, the Department assumes the tasks required would necessitate additional staff time. Therefore anticipating that the fiscal impact could amount to anywhere between \$10,000 and \$100,000 per year. Nonetheless, this projection is highly contingent on the extent of regulations and decisions made, as well as how mitigation is defined.

The Department of Natural and Cultural Resources cannot predict how much the bill will cost because they don't know if or what regulatory changes might need to be made in Coos County, and thus can't calculate those potential expenses.

It is assumed that any fiscal impact would occur after FY 2025.

AGENCIES CONTACTED:

Department of Administrative Services, Department of Environmental Services, Department of Transportation, Department of Natural and Cultural Resources, and Fish and Game Department