

REGULAR CALENDAR

October 26, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Environment and Agriculture to
which was referred HB 1121,**

**AN ACT relative to new solid waste sites. Having
considered the same, report the same: NOT
RECOMMENDED FOR FUTURE LEGISLATION.**

Rep. Peter Bixby

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Environment and Agriculture
Bill Number:	HB 1121
Title:	relative to new solid waste sites.
Date:	October 26, 2022
Consent Calendar:	REGULAR
Recommendation:	NOT RECOMMENDED FOR FUTURE LEGISLATION

STATEMENT OF INTENT

This bill would have required a bond from the developer of any new landfill that would be sufficiently large to remediate any imaginable future mishap. The bonding procedures, amounts, and other requirements were not workable.

Vote 12-0.

Rep. Peter Bixby
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Environment and Agriculture

HB 1121, relative to new solid waste sites.**NOT RECOMMENDED FOR FUTURE LEGISLATION** .

Rep. Peter Bixby for Environment and Agriculture. This bill would have required a bond from the developer of any new landfill that would be sufficiently large to remediate any imaginable future mishap. The bonding procedures, amounts, and other requirements were not workable. **Vote 12-0.**

Original: House Clerk
Cc: Committee Bill File

Heather Goley

From: Peter Bixby
Sent: Tuesday, October 25, 2022 1:52 PM
To: Howard Pearl; Heather Goley
Subject: Reports for IS bills not recommended for future legislation

Hi Howard, Heather

Here are the reports for the IS bills I made the motions for:

The recommendation for all the following is do not consider for future legislation:

HB 366 would have created procedures for determining if an animal neglect cruelty case resulted from a hoarding disorder and created ways to mitigate the problems for the defendant and the animals. The difficulties of balancing due process issues and animal welfare issues could not be resolved.

HB 438 would have required specific privacy and security conditions to be applied to the animal transfer database program in the Dept. of Agriculture, Markets, and Foods. The privacy and security requirements were included in the version of the bill passed in the 2021 budget, so this bill is no longer needed.

HB 585 would have created the option of registering a dog for the effective duration of a rabies vaccine, which is three years. This would have created logistical problems for municipal clerks. There is no need to change the current procedures.

HB 627 would have created a grant fund to help value added agricultural producers meet matching requirements for Federal USDA value added producer grants. The proposed amounts and mechanisms would not have achieved the bills goals and the bill would not serve as a good blueprint for a better approach.

HB 1121 would have required a bond from the developer of any new landfill that would be sufficiently large to remediate any imaginable future mishap. The bonding procedures, amounts, and other requirements were not workable.

HB 1652 would have created a beverage container redemption program similar to one proposed for a nearby state. The complexity of the redemption system made it unworkable. This topic is better considered under the rubric of extended producer responsibility, which is cited as a waste reduction approach in the NH 10yr solid waste plan. Study committee legislation for extended producer responsibility is likely to be filed based on the interim study recommendation of HB 1111.

Peter Bixby

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1121

BILL TITLE: relative to new solid waste sites.

DATE: October 25, 2022

LOB ROOM: 301 - 303

MOTION:

Interim Study (2nd yr) Not Recommended for Future Legislation

Moved by Rep. Bixby

Seconded by Rep. Comtois

Vote: 12-0

Respectfully submitted,

Rep Barbara Comtois, Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1121

BILL TITLE: relative to new solid waste sites.

DATE:

LOB ROOM: 301 - 303

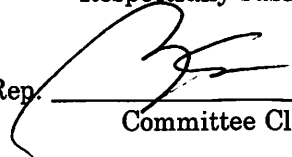
MOTION:

Recommended for Future Legislation

Not Recommended for Future Legislation

Moved by Rep. Burby Seconded by Rep. Conyers Vote: 12-0

Respectfully submitted,

Rep. 
Committee Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

9/28/2022 11:07:59 AM
Roll Call Committee Registers
Report

2022 SESSION

Environment and Agriculture

Bill #: HB 1121 Motion: not recommended AM #: _____ Exec Session Date: 10-25-22

Members	YEAS	Nays	NV
Pearl, Howard C. Chairman	✓		
Aron, Judy F. Vice Chairman			
Comtois, Barbara Clerk	✓		
Verville, Kevin G.	✓		
Davis, Arnold G.	✓		
Stapleton, Walter A.	✓		
Homola, Susan	✓		
Kennedy, Margaret Anne			
Mason, James L.	✓		
Sanborn, Gail E.	✓		
Bixby, Peter W.	✓		
Sofikitis, Catherine M.			
Dutzy, Sherry	✓		
Murray, Megan A.	✓		
Von Plinsky, Sparky	✓		
Caplan, Tony			
Perez, Maria			
TOTAL VOTE:	12	0	



**STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK**

9/28/2022 11:07:59 AM
Roll Call Committee Registers
Report

2022 SESSION

Bill #: _____ **Motion:** _____ **AM #:** _____ **Exec Session Date:** _____

CONSENT CALENDAR

February 8, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Environment and Agriculture to
which was referred HB 1121,**

**AN ACT relative to new solid waste sites. Having
considered the same, report the same with the
recommendation that the bill be REFERRED FOR
INTERIM STUDY.**

Rep. Megan Murray

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Environment and Agriculture
Bill Number:	HB 1121
Title:	relative to new solid waste sites.
Date:	February 8, 2022
Consent Calendar:	CONSENT
Recommendation:	REFER FOR INTERIM STUDY

STATEMENT OF INTENT

This bill would require an applicant for a new solid waste landfill to provide proof of insurance and obtain a surety bond against all damages. Since this idea was closely aligned with the purposes of a bill that sought to create a study committee to examine landfill siting and capacity preservation, we amended that bill to include specific language regarding this bill. We are recommending the bill be sent to interim study to preserve the bill's intent just in case other landfill legislation does not pass.

Vote 17-0.

Rep. Megan Murray
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Environment and Agriculture

HB 1121, relative to new solid waste sites. **REFER FOR INTERIM STUDY.**

Rep. Megan Murray for Environment and Agriculture. This bill would require an applicant for a new solid waste landfill to provide proof of insurance and obtain a surety bond against all damages. Since this idea was closely aligned with the purposes of a bill that sought to create a study committee to examine landfill siting and capacity preservation, we amended that bill to include specific language regarding this bill. We are recommending the bill be sent to interim study to preserve the bill's intent just in case other landfill legislation does not pass. **Vote 17-0.**

Original: House Clerk

Cc: Committee Bill File

Committee Report

Committee: Environment and Agriculture

Bill Number: 1121

Title: relative to new solid waste sites.

Date: February 1, 2022

Consent Calendar: **YES**

Ought To Pass

Ought To Pass w/Amendment Amendment Number:

Inexpedient To Legislate

Interim Study (available only in 2nd year of biennium)

Statement of Intent:

This bill would require an applicant for a new solid waste landfill to provide proof of insurance and obtain a surety bond against all damages. Because this idea was closely aligned with the purposes of HB 1049, a study committee to examine landfill siting and capacity preservation, we amended HB 1049 to include specific language about hb1121. We are recommending interim study to preserve the bill's intent just in case HB 1049 does not pass.

Committee Vote: 17-0

Respectfully submitted: Rep. Megan Murray

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1121

BILL TITLE: relative to new solid waste sites.

DATE: February 1, 2022

LOB ROOM: 301 - 303

MOTIONS: **REFER FOR INTERIM STUDY**

Moved by Rep. M. Murray

Seconded by Rep. G. Sanborn

Vote: 17-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Barbara Comtois, Clerk



2022 SESSION

Environment and Agriculture

Bill #: HB1121 Motion: FS AM #: _____ Exec Session Date: 2-1-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearl, Howard C. Chairman	✓		
Aron, Judy F. Vice Chairman	✓		
Comtois, Barbara Clerk	✓		
Verville, Kevin G. <u>Johnson, Dawn</u>	✓		
Davis, Arnold G. <u>Lang, Tim</u>	✓		
Stapleton, Walter A. <u>McHelt, Mike</u>	✓		
Homola, Susan	✓		
Kennedy, Margaret Anne	✓		
Mason, James L.	✓		
Sanborn, Gail E.	✓		
Bixby, Peter W.	✓		
Sofikitis, Catherine M.			
Bouldin, Andrew J.	✓		
Dutzy, Sherry	✓		
Murray, Megan A.	✓		
Von Plinsky, Sparky	✓		
Caplan, Tony <u>Almy, Susan</u>	✓		
Perez, Maria	✓		
TOTAL VOTE:	17	0	

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1121

BILL TITLE: relative to new solid waste sites.

DATE: January 18, 2022

LOB ROOM: 301 - 303 **Time Public Hearing Called to Order:** 9:37 a.m.

Time Adjourned: 9:50 a.m.

Committee Members: Reps. Pearl, Aron, Davis, Homola, Kennedy, G. Sanborn, Bixby, Dutzy, M. Murray, Von Plinsky and Perez

Bill Sponsors:

Rep. Massimilla
Rep. Merchant

Rep. Burroughs
Rep. Deshaies

Rep. Egan
Sen. Hennessey

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Linda Masimilla introduces her bill. Discusses leachate discharges in N.H. and PFAS contamination. Seeks to require a surety bond for landfills. Bond requirements would allocate risk to owner, operators vs. elsewhere.

Rep. Bixby – notes the amendment as well 2022-0111h - asks about whether the surety bonds would have helped in the Coakley landfill issues.

Rep. Aaron asks why limiting surety bond requirements to private vs. public landfills.

DES Dir. Mike Wimsatt – agency is not taking a position on the legislation. Notes they have not seen the amendment yet. Discusses the bill as it was first introduced. DES is not aware of surety bond requirements elsewhere and is unsure what effect provision may have or enforcement. Wonders what the term 'damages' means. Chairman Pearl asks about if surety bonds stand valid even in bankruptcy? Dir. Wimsatt is unsure.

Tom Tower – North Country Alliance for Balanced Change – Speaks in favor and discusses protections around damages, and discusses free market advantages of this bill being implemented. Seeks to also to protect residents and businesses and closes regulatory gap he sees. It will cost the state nothing to administer.

Respectfully submitted,

Rep. Megan Murry
Acting Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1121

BILL TITLE: relative to new solid waste sites.

DATE: 1/18/2022

ROOM: 301-303

Time Public Hearing Called to Order: 9:37am

Time Adjourned: 9:50am

(please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, Verville, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Sofikitis, Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, Caplan, Hyland and Perez

Bill Sponsors:

Rep. Massimilla
Rep. Merchant

Rep. Burroughs
Rep. Deshaies

Rep. Egan
Sen. Hennessey

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Massimilla submits testimony/introduces bill + amendment
2022-0111h

* Dir. DES Wimsatt submits testimony on original
bill.

The New Hampshire
House of Representatives

HOUSE OF REPRESENTATIVES - ONLINE TESTIMONY SUBMISSIONS

House Environment and Agriculture

HB1121

Support: 201 | Oppose: 2 | Neutral: 0

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
Allegra Wright	Bethlehem	NH	Support		
Alysha Marinow	Nashua	NH	Support		
Amanda Hodges	Milford	NH	Support		
Amy Delventhal	Bethlehem	NH	Support		
Andrew Jones	Pembroke	NH	Support		
Ann Craxton	Hanover	NH	Support		
Ann Garland	LEBANON	NH	Support		
anna doyle	whitefield	NH	Support		
Anne Dontonville	Enfield	NH	Support		
Anne Lynch-Ambrose	Dalton	NH	Support		
Annie Rettew	Concord	NH	Support		
AnnMarie Tower	Whitefield	NH	Support		
Arthur Torrey	Nashua	NH	Support		
Barbara Zaenglein	Amherst	NH	Support		
Bert Corley	Clarksville	NH	Support		
Beth Quinlan	Bethlehem	NH	Support		
Beth Woodside	Whitefield	NH	Support		
Bill Lanza	Bethlehem	NH	Support		
Bonnie Christie	Hopkinton	NH	Support		
Brian Bourgeois	Goffstown	NH	Support		
Bruce Berk	Pittsfield	NH	Support		

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
Bruce Blaney	Bethlehem	NH	Support		
Bryan Koplow	Littleton	NH	Support		
Caitlin O'Leary	Westminster	MA	Support		
Cate Doucette	Orwigsburg	PA	Support		
Catherine Corkery	Concord	NH	Support		
Cathie Bourgeois	Goffstown	NH	Support		
Charles Despres	Whitefield	NH	Support		
Cheri Falk	Wilton	NH	Support		
Cheryl Jensen	Bethlehem	NH	Support		
Chris Purington	Auburns	NH	Support		
Christopher Brooks	Bethlehem	NH	Support		
Cindy Raspiller	Mont Vernon	NH	Support		
Claire Lupton	Whitefield	NH	Support		
Claudia Damon	Concord	NH	Support		
Connie White	Harrisville	NH	Support		
Curtis Howland	Manchester	NH	Oppose		
Cynthia Barrett	Milford	NH	Support		
Daniel Wessler	Whitefield	NH	Support		
Danielle Koerner	Auburn	NH	Support		
Danuta Brooks	Bethlehem	NH	Support		
Dave Manning	Bedford	NH	Support		
David Doherty	Pembroke	NH	Support		
David Koerner	Dalton	NH	Support		
David Madden	Whitefield	NH	Support		
Dawn Steele	Franconia	NH	Support		
Deborah Nelson	Ipswich	MA	Support		
Deborah Rainey	Harrisville	NH	Support		
DeeAnn Brockmann	Ellsworth	NH	Support		
Denise Bujalski	Thornton	NH	Support		
Denise Clark	Milford	NH	Support		
Denise St Jean	Dalton	NH	Support		

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
Diana Frye	Portsmouth	NH	Support		
Don Sharp	Dalton	NH	Support		
Duncan Ross	Dover	NH	Support		
Edward Craxton	Hanover	NH	Support		
Eileen Savage-Creedon	Dalton	NH	Support		
Elaine Thomas	Nashua	NH	Support		
Elliot Wessler	Whitefield	FL	Support		
Elizabeth Black	Amherst	NH	Support		
Ellen Hays	Whitefield	NH	Support		
Ellis Robinson	Grantham	NH	Support		
Elmer Lupton	Whitefield	NH	Support		
Emily Zajano	Exeter	NH	Support		
Eric Loveless	Bedford	NH	Oppose		
Eric Zaenglein	Amherst	NH	Support		
Eryka Lowe	Bethlehem	NH	Support		
Evan Oxenham	Plainfield	NH	Support		
Fred Anderson	Whitefield	NH	Support		
George Russell	Seabrook	NH	Support		
Gina Shea	Franconia	NH	Support		
Gloria GAUDREAU	Nashua	NH	Support		
Gretchen Hesler	Franconia	NH	Support		
Heidi Hamer	Manchester	NH	Support		
Howard Brown	Mont Vernon	NH	Support		
Ingrid Johnson	Ipswich	MA	Support		
irit levy	Waterville Valley	NH	Support		
James Dorr	WHITEFIELD	NH	Support		
Jane MacKay	Franconia	NH	Support		
Janet Damiano	Dalton	NH	Support		
Janet Marshall	Lisbon	NH	Support		
Jean Despres	Whitefield	NH	Support		
Jean Matray	BETHLEHEM	NH	Support		

Name	Town	State	Position	Attachment	Typed
Jeanne Madden	Whitefield	NH	Support		
Jeanne Torpey	Concord	NH	Support		
Jeannette Marinow	Nashua	NH	Support		
Jennifer Lee	Whitefield	NH	Support		
Jenny Crowe	Manchester	NH	Support		
Jeremiah Swatzell	Whitefield	NH	Support		
JESSE DAVIS	NASHUA	NH	Support		
Jill Weber	Mont Vernon	NH	Support		
jim doucette	Whitefield	NH	Support		
Jim Shea	Franconia	NH	Support		
Jo Beth Dudley	Dalton	NH	Support		
Joanne Blaney	Bethlehem	NH	Support		
Joanne Carey	Franconia	NH	Support		
John Ballentine	Nashua	NH	Support		
John McNulty	Whitefield	NH	Support		
John Tatone	Sugar Hill	NH	Support		
John Tuthill	Acworth	NH	Support		



January 18, 2022

Chair Pearl
NH House Committee on the Environment and Agriculture
NH State House
Concord, NH

RE: Landfill bills, HB1454, HB1420, HB1121

Dear Chair Pearl and Honorable Members,

I am the Chapter Director of the NH Chapter of the Sierra Club. NH Sierra Club (NHSC) is an environmental group whose goal is to protect the environment and the communities on it. NHSC represents over 20,000 members and supporters in New Hampshire.

During the pandemic of COVID-19, NHSC has supported the use of virtual participation in the legislature, including watching hearings and committee meetings, testifying, signing in and other engagement with technology, for our members, supporters, interns, and employees. There was record attendance by Granite Staters in the public hearings. You can understand our disappointment that the 2022 calendar year has not allowed virtual testimony and requires in-person testimony only. While the remote sign-in and emailing testimony remains, I cannot, in good conscience, ask our engaged volunteers to attend hearings or meetings because of the reckless disregard for appropriate health safeguards. I encourage this committee and others to adopt increased protections appropriate for the extreme health risk of the pandemic for public engagement as is the right of all citizens.

The Chapter supports the passage of the various landfill bills:

HB1121 relative to new solid waste sites.

HB1049 establishing a committee to study landfill siting criteria and methods for reducing pressure on landfill capacity.

HB1454 relative to permits for the siting of new landfills.

HB1420 prohibiting the issuance of new landfill permits until the state's solid waste plan is updated.

The Sierra Club's members are over 2.1 million of your friends and neighbors with over 20,000 in New Hampshire. Inspired by nature, we work together to protect our communities and the planet. The Sierra Club is America's oldest, largest and most influential grassroots environmental organization.

New Hampshire Sierra Club 40 North Main Street, Second Floor Concord, NH 03301

603/224-8222 FAX: 603/224-4719

www.sierraclub.org

www.sierraclub.org/new-hampshire

The challenges presented by landfill siting and monitoring to drinking water and the natural landscape are profound in New Hampshire. The goal to protect these natural resources and public health is at the heart of these bills. No one wishes for a landfill to leek but we need to make precautions for when they do. The Sierra Club policy ranks landfilling and incineration of municipal waste as the very last option, recognizing that there are many opportunities to reduce waste before ever needing to bury or burn it. While this list of bills does not address redesigning and reducing waste, these bills do provide creative options to raise the level of public health and the environmental protection.

By providing a new approach, with financial and insurance tools in HB1121, with a different measure for the site placement in HB1454, instituting a pause until the state plan is approved in HB1420 and creating a study commission in HB1049, all of these bills address current problems in landfill siting.

NHSC asks the committee to support passage of HB1121, HB1049, HB1420 and HB1454.

Respectfully submitted,

Catherine M. Corkery

Chapter Director
NH Sierra Club
40 North Main Street, Suite 2
Concord, NH 03301



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 18, 2022

The Honorable Howard Pearl
Chairman, House Environment & Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

RE: HB 1121, An Act relative to new solid waste sites

Dear Chairman Pearl and Members of the Committee:

Thank you for the opportunity to testify on HB 1121. This bill would establish specific insurance and surety bonding requirements for new privately-owned landfills. NHDES is not taking a position on this bill, but does have some concerns about the provisions of the bill.

First, the bill requires applications for a new solid waste landfill to “submit evidence (to NHDES) that the applicant is in compliance with all insurance and surety bonding requirements of the state and federal government.” At present, NHDES is unaware of any specific state or federal insurance or bonding requirements specifically applied to solid waste landfills. Accordingly, NHDES is uncertain of what effect this provision of the bill would have, or how NHDES would implement or enforce the provision.

Second, the bill requires an applicant to “provide evidence to the jurisdictions in which it will be located, and all adjacent jurisdictions, that the applicant qualifies for and will obtain a surety bond against any and all damages caused to individuals and businesses located within those jurisdictions as a result of operation of the landfill.” It is unclear to NHDES what would constitute “damages,” who would make that determination, and whether and how NHDES would be expected to enforce the provision. Further, given these uncertainties of scope, and our understanding that such a bond would need to be in force and effect for perhaps decades, NHDES questions whether such bonds would be obtainable in the market.

Third, the bill applies these requirements only to new privately-owned landfills. NHDES notes that to the extent that the bill is needed to protect individuals and businesses from damages that may be caused by operation of a landfill, it could be presumed that such damages could also be caused by a publicly-owned landfill.

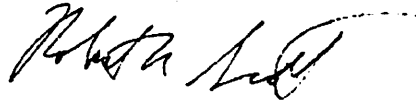
www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

The Honorable Howard Pearl
Chairman, House Environment & Agriculture Committee
January 18, 2022
Page 2

Thank you again for the opportunity to comment on HB 1121. Should you have further questions or need additional information, please feel free to contact Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

cc: Sponsors of HB 1121: Representatives Massimilla, Burroughs, Egan, Merchant, Deshaies; Senator Hennessey

Rep. Massimilla, Graf. 1
January 14, 2022
2022-0111h
12/05

Amendment to HB 1121

1 Amend the bill by replacing section 1 with the following:

2

3 1 New Paragraph; Landfill Permitting; Proof of Insurance. Amend RSA 149-M:9 by inserting
4 after paragraph XIV the following new paragraph:

5 XV. Applicants for permits to construct and operate a new privately-owned solid waste
6 landfill shall submit, to the department of environmental services, to the jurisdictions in which it
7 will be located, and to all adjacent jurisdictions, evidence that the applicant qualifies for and will
8 obtain a surety bond against any and all damages caused to individuals and businesses located
9 within those jurisdictions as a result of operation of the solid waste landfill. The surety bond shall
10 amount to at least the total cost of construction of the landfill, including third-party costs.

2022-0111h

AMENDED ANALYSIS

This bill requires an applicant for a new solid waste landfill to provide proof of insurance and obtain a surety bond against all damages.

AMENDED AND APPROVED



Healthy environment.
Healthy economy.

Support of HB 1121

January 18, 2022

Members of the House Environment and Agriculture Committee:

Thank you for the opportunity to testify today. For the record, my name is Tom Tower and I'm a resident of Whitefield and speaking here today on behalf of The North Country Alliance For Balanced Change (NCABC) to speak in **support of HB 1121**.

Before I begin, I want to thank Representative Massimilla and the other bill sponsors, for their tireless and hard work.

HB 1121 is a very important piece of legislation because it will help protect the residents and businesses of New Hampshire from bearing the entire cost of personal and business damages that may be caused by newly constructed landfills. Without this bill, the likelihood of restitution for those that incur actual damages from the operation of a new landfill is in question. This is not fair. It is not consistent with free market economics. And it is not good for our state.

It is well recognized, even by individual firms in the solid waste industry, that landfills are a messy business. Reams of evidence exists that landfills have the potential to significantly contaminate land, water and air resources, with consequences for nearby people and businesses, including damage to their health, their safety, their economic security, and to their quality of life.

Federal and state environmental regulators have significant responsibilities to look after the natural environment, i.e., to ensure, in advance, that a landfill does not cause untoward damage to the environment. But the responsibilities of environmental regulators to protect individuals and businesses from damages is extremely limited. In the case of New Hampshire, by default, damages incurred by individuals and businesses must be addressed through legal action.

The value of this bill is that it codifies that a landfill permit holder must bear the entirety of the costs associated with landfill operations, including the potential costs associated with damages to nearby individuals and businesses. The mechanism used in this bill is to require, prior to issuance of permits, the permit holder to show evidence to DES that it has a surety bond to backstop any restitution that may be required by courts to hold-harmless those damaged by landfill operation.



Healthy environment.
Healthy economy.

In the absence of such surety bonding, a permit holder may have the incentive to walk away from its financial responsibilities if there are large claims of damages. There are many examples of industrial firms walking away from their assets for such a reason, e.g., by declaring bankruptcy. Although some may consider this unlikely, the consequences would be great, as it would leave in a lurch those damaged by the operation of the landfill. This bill therefore provides added assurance that nearby residents and businesses that incur damages will, in fact, be compensated for those damages.

There are other reasons to support this bill. It is entirely consistent with, and codifies for landfills, the basic principle that polluters should pay for the damages they cause. It is also entirely consistent with the basic principle that industrial firms must internalize all of the costs that their activities occasion, in this case, including the costs associated with harm to nearby residents and businesses.

HB 1121 is a good bill with bipartisan support that relies on market forces, rather than administrative determinations, to protect NH's residents and businesses. It closes a regulatory gap that exists with respect to holding landfill permit holders accountable and it helps protect residents and businesses that may be harmed by the operations of new landfills. Best of all, it will cost the state nothing to administer.

Thank you and I'm happy to answer any questions you may have.

Thank you,

Tom Tower
North Country Alliance For Balanced Change (NCABC)

FACT SHEET ON HB 1121

Background

Owners/operators of municipal solid waste landfills (MSWLF) are subject to financial assurance requirements. Although a number of different mechanisms (such as escrow accounts) can be used, these mechanisms commonly come under the rubric of **surety bond requirements**.

There are Federal —and some state— requirements for MSWLF to obtain surety bonds. **However, surety bonds required for MSWLF for the most part only cover financial obligations to close, and monitor after closing, the MSWLF.**

Federal Requirements

The Federal requirements for landfill surety bonding are spelled out in 40 CFR Section 258.74. In essence, an owner/operator is “...required to demonstrate that they can pay for the required closure and post-closure care activities, and any corrective action that might become necessary due to releases of contaminants into the surrounding environment.” See: <https://www.epa.gov/landfills/requirements-municipal-solid-waste-landfills-mswlf>

NH State Requirements

NH RSA 149:M-9 Section X requires a solid waste permit holder to show “...evidence of financial responsibility...in the event that the operations at the facility are abandoned, interrupted, or stopped.”

Conclusion

There is **no explicit Federal or NH state requirement for a MSWFL owner/operator to ensure financial responsibility for making restitution to those harmed by the landfill**. Individuals that suffer damages have recourse in courts of law, but there is no assurance that an owner/operator will make good on restitution required by a court.

HB 1121 Fills the Regulatory Gap

The Rationale

A fundamental tenet of environmental regulation is to ensure that polluters should pay for the damages they cause. If there are no requirements (or weak requirements) to enforce this tenet, two things happen:

- Polluters have limited incentives to internalize in their decision-making the costs of the pollution they may create; and
- Individuals that bear the costs of the pollution are less likely to be compensated for the damages they suffer.

What HB 1121 Does

This bill, as amended, would require as a condition for permits for a new privately-owned landfill that the permit applicant obtain a surety bond to ensure financial responsibility for damages caused by the landfill during the operating life of the landfill. Given that the direction of air and water contamination can't be controlled, the surety bond will cover damages in the community in which the landfill is located, as well as all adjacent communities in the state.

Prior to permitting by the department, the permit applicant would be required to demonstrate that it can and will, prior to the start of operations, have a surety bond in place. This requirement would confer the following advantages:

- It would **uphold the polluter pays principle**;
- It would **help ensure that individuals and businesses will in fact be compensated as directed by the courts**; and
- It **relies on the insurance marketplace to determine the type and amount of surety bonding** a MSWLF permit applicant will need.

Why NH Needs to Enact HB 1121 Now

- **If trends continue, NH will become the primary sink for municipal waste from all over New England.**
- New landfills face **huge liabilities for the damages their facilities cause, e.g., from PFAS contamination.** Owner/operators may therefore have significant incentives to “walk-away” from their financial responsibilities for compensation to individuals and businesses that suffer harms.
- A surety bond requirement is a backstop to the liability exposure a permit applicant would face, making it **less likely a permit applicant will tie up courts with needless and/or extended litigation.**

Heather Goley

From: Tom DeRosa <tom@bfreshconsulting.com>
Sent: Monday, January 17, 2022 9:30 PM
To: ~House Environment and Agriculture Committee
Subject: Written testimony from North Country Alliance for Balanced Change
Attachments: NCABC Fact Sheet.pdf; Tom Tower NCABC Support HB 1454 .pdf; Wayne Morrison NCABC Support HB 1420 .pdf; Tom Tower NCABC Support HB 1121.pdf; Fact Sheet on HB 1121.pdf

Good evening Chairman Pearl and Members of the House Environment and Agriculture Committee,

On behalf of the North Country Alliance for Balanced Change, please find the following written testimony ahead of tomorrow's committee hearing:

1. Tom Tower in support of HB1121;
2. Wayne Morrison in support of HB1420;
3. Tom Tower in support of HB1454.

Finally, I have attached a fact sheet on solid waste in New Hampshire as well as a fact sheet on HB1121 for your cogitation.

We look forward to tomorrow's hearings and are happy to address any questions you have.

Best,

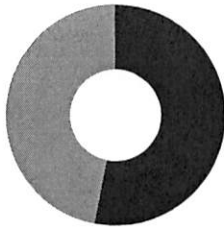
Tom

Tom DeRosa
cell: 603.657.0051
www.bfreshconsulting.com

GET THE FACTS: SOLID WASTE IN NH

"Between 2015 and 2019, New Hampshire received an average of 2.2 million tons of trash a year, **47 percent** of it from elsewhere in New England, according to the state Department of Environmental Services. In 2019, **86 percent of imported garbage came from Massachusetts.**" *

NH: New England's Dumping Ground



■ New Hampshire ■ Other New England States

COMING TO A SMALL TOWN NEAR YOU...

One proposed NH landfill plans to *"bring more than 100 heavy trucks rumbling every day through small towns to dump nearly a half-million tons of trash a year on 137 acres of forested wetlands."**

* Boston Globe 7/19/21

DECISIONS WITH AN OUTDATED PLAN

19 YEARS

SINCE NH'S
SOLID WASTE PLAN
HAS BEEN
UPDATED



NH has been making solid waste decisions based on a state solid waste plan that hasn't been updated since 2003.

WHAT TO DO?

- 1- No New Landfills until NH updates it's Solid Waste Plan (HB 1420)
- 2- Have a science based setback for new landfills to prevent seepage into groundwater. (HB 1454)
- 3- Require landfill developers obtain a surety bond against any and all damages to nearby residents and businesses from water and air pollution such as PFAS. (HB 1121)

North Country Alliance for Balanced Change

Email: northcountryabc@gmail.com

Mail: NCABC, PO Box 553, Littleton, NH 03561





Healthy environment.
Healthy economy.

Support of HB 1454

January 18, 2022

Members of the House Environment and Agriculture Committee:

Thank you for the opportunity to testify today. For the record, my name is Tom Tower and I'm a resident of Whitefield and speaking here today on behalf of The North Country Alliance For Balanced Change (NCABC) to speak in **support of HB 1454**.

Last year, there was an enormous amount of support from people across the state in favor of HB 177 which worked to prevent siting of a landfill within a 2 mile buffer of a state park. As you recall, HB 177 was eventually passed by the House but failed in the Senate.

Although ultimately unsuccessful, the momentum of this legislation did help encourage many new important bills this session having to do with topics surrounding solid waste, groundwater and PFAS.

Once such bill is HB 1454, which seeks to create science-based setbacks for new landfills from any perennial river, lake, or coastal water.

The drafters of HB 1454 listened carefully to the concerns that this Committee and the Senate had in regards to HB 177 and worked to develop a smart and workable piece of legislation.

This bill makes it explicitly clear that it does not apply to existing landfills and their expansions, does not use an arbitrary setback number and instead allows for an independent hydrogeologist to determine reasonable seepage per year.

Smart project siting is not just a "North Country" issue. This legislation will protect all valuable state resources from our coastline to the Merrimack River, Lake Winnepesaukee, Lake Sunapee and every town and community in-between.

As we have seen with PFAS, this is not about telling people or developers what they can and can't do, it about making sure what they do doesn't carry lifelong, detrimental effects to our communities and state.

Thank you,

Tom Tower
North Country Alliance For Balanced Change (NCABC)



Healthy environment.
Healthy economy.

Support of HB 1420

January 18, 2022

Members of the House Environment and Agriculture Committee:

Thank you for the opportunity to testify today. For the record, my name is Wayne Morrison and I'm a resident of Whitefield and here today as President of North Country Alliance for Balanced Change (NCABC) to speak in support of HB 1420.

NCABC is a grassroots, non-profit organization whose mission is balancing the natural resources and economic interests in New Hampshire's North Country. It is through that advocacy work that we have recognized the urgent need for solid waste reform to protect the health, safety, and environmental interests of citizens throughout the state.

HB 1420 is a smart, simple, and common-sense bill that prohibits the issuance of permits for any newly constructed landfills until the state's solid waste plan has been updated.

Last year, the House took the critically important step of passing HB 413, establishing a solid waste working group and creating clear and measurable solid waste reduction goals. The solid waste working group is also chartered with assisting DES in updating the state's solid waste plan. As you well know Chairman Pearl, that work is now in process.

The reason why HB1420 is needed is that the state has operated without benefit of an updated solid waste plan for nearly two decades. In the absence of an updated plan, clear and measurable waste reduction goals have not been established or monitored, nor have such metrics been available to drive corrective actions or modifications to the state's permitting and regulatory policies.

In the absence of a current plan, the state has not realized the potential of implementing policies that more fully support the solid waste hierarchy, thus reducing the reliance on landfilling in favor of more desirable practices such as source reduction, recycling & reuse, and composting. To our detriment, landfilling remains the de facto standard.

The lack of a solid waste plan has also contributed to the state's lagging position relative to its New England neighbors. While other states have tightened regulations, closed landfills and reduced landfill capacity, NH has become a more favored destination for importing their "out of state" trash. In the absence of a plan, and coherent strategy, this trend is most likely to accelerate. To the extent that there is any landfill capacity pressure in NH, it is in large measure driven by this importation of out of state trash that now consumes nearly 50% of our available landfill capacity.



Healthy environment.
Healthy economy.

A landfill permit is a generational decision with enormous health, safety, and environmental impacts and risks for decades to come. Certainly, such a decision should be made within the context of the latest plans, goals, and objectives at the state's disposal.

We urge you to pass HB 1420 to ensure the state's permitting and regulatory policies will reflect the state's updated solid waste plan and goals before permits for newly constructed landfills are issued.

Thank you for allowing me the opportunity to provide testimony today and I'm more than happy to answer any questions the Committee may have.

Thank you,

Wayne Morrison
President
M: (603)930-8010
North Country Alliance For Balanced Change (NCABC)



Healthy environment.
Healthy economy.

Support of HB 1121

January 18, 2022

Members of the House Environment and Agriculture Committee:

Thank you for the opportunity to testify today. For the record, my name is Tom Tower and I'm a resident of Whitefield and speaking here today on behalf of The North Country Alliance For Balanced Change (NCABC) to speak in **support of HB 1121**.

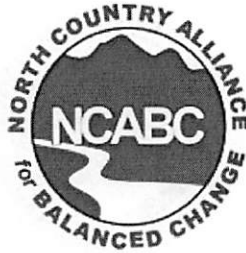
Before I begin, I want to thank Representative Massimilla and the other bill sponsors, for their tireless and hard work.

HB 1121 is a very important piece of legislation because it will help protect the residents and businesses of New Hampshire from bearing the entire cost of personal and business damages that may be caused by newly constructed landfills. Without this bill, the likelihood of restitution for those that incur actual damages from the operation of a new landfill is in question. This is not fair. It is not consistent with free market economics. And it is not good for our state.

It is well recognized, even by individual firms in the solid waste industry, that landfills are a messy business. Reams of evidence exists that landfills have the potential to significantly contaminate land, water and air resources, with consequences for nearby people and businesses, including damage to their health, their safety, their economic security, and to their quality of life.

Federal and state environmental regulators have significant responsibilities to look after the natural environment, i.e., to ensure, in advance, that a landfill does not cause untoward damage to the environment. But the responsibilities of environmental regulators to protect individuals and businesses from damages is extremely limited. In the case of New Hampshire, by default, damages incurred by individuals and businesses must be addressed through legal action.

The value of this bill is that it codifies that a landfill permit holder must bear the entirety of the costs associated with landfill operations, including the potential costs associated with damages to nearby individuals and businesses. The mechanism used in this bill is to require, prior to issuance of permits, the permit holder to show evidence to DES that it has a surety bond to backstop any restitution that may be required by courts to hold-harmless those damaged by landfill operation.



Healthy environment.
Healthy economy.

In the absence of such surety bonding, a permit holder may have the incentive to walk away from its financial responsibilities if there are large claims of damages. There are many examples of industrial firms walking away from their assets for such a reason, e.g., by declaring bankruptcy. Although some may consider this unlikely, the consequences would be great, as it would leave in a lurch those damaged by the operation of the landfill. This bill therefore provides added assurance that nearby residents and businesses that incur damages will, in fact, be compensated for those damages.

There are other reasons to support this bill. It is entirely consistent with, and codifies for landfills, the basic principle that polluters should pay for the damages they cause. It is also entirely consistent with the basic principle that industrial firms must internalize all of the costs that their activities occasion, in this case, including the costs associated with harm to nearby residents and businesses.

HB 1121 is a good bill with bipartisan support that relies on market forces, rather than administrative determinations, to protect NH's residents and businesses. It closes a regulatory gap that exists with respect to holding landfill permit holders accountable and it helps protect residents and businesses that may be harmed by the operations of new landfills. Best of all, it will cost the state nothing to administer.

Thank you and I'm happy to answer any questions you may have.

Thank you,

Tom Tower
North Country Alliance For Balanced Change (NCABC)

FACT SHEET ON HB 1121

Background

Owners/operators of municipal solid waste landfills (MSWLF) are subject to financial assurance requirements. Although a number of different mechanisms (such as escrow accounts) can be used, these mechanisms commonly come under the rubric of **surety bond requirements**.

There are Federal —and some state— requirements for MSWLF to obtain surety bonds. **However, surety bonds required for MSWLF for the most part only cover financial obligations to close, and monitor after closing, the MSWLF.**

Federal Requirements

The Federal requirements for landfill surety bonding are spelled out in 40 CFR Section 258.74. In essence, an owner/operator is “...required to demonstrate that they can pay for the required closure and post-closure care activities, and any corrective action that might become necessary due to releases of contaminants into the surrounding environment.” See: <https://www.epa.gov/landfills/requirements-municipal-solid-waste-landfills-mswlf>

NH State Requirements

NH RSA 149:M-9 Section X requires a solid waste permit holder to show “...evidence of financial responsibility...in the event that the operations at the facility are abandoned, interrupted, or stopped.”

Conclusion

There is **no explicit Federal or NH state requirement for a MSWFL owner/operator to ensure financial responsibility for making restitution to those harmed by the landfill.** Individuals that suffer damages have recourse in courts of law, but there is no assurance that an owner/operator will make good on restitution required by a court.

HB 1121 Fills the Regulatory Gap

The Rationale

A fundamental tenet of environmental regulation is to ensure that polluters should pay for the damages they cause. If there are no requirements (or weak requirements) to enforce this tenet, two things happen:

- Polluters have limited incentives to internalize in their decision-making the costs of the pollution they may create; and
- Individuals that bear the costs of the pollution are less likely to be compensated for the damages they suffer.

What HB 1121 Does

This bill, as amended, would require as a condition for permits for a new privately-owned landfill that the permit applicant obtain a surety bond to ensure financial responsibility for damages caused by the landfill during the operating life of the landfill. Given that the direction of air and water contamination can't be controlled, the surety bond will cover damages in the community in which the landfill is located, as well as all adjacent communities in the state.

Prior to permitting by the department, the permit applicant would be required to demonstrate that it can and will, prior to the start of operations, have a surety bond in place. This requirement would confer the following advantages:

- It would **uphold the polluter pays principle**;
- It would **help ensure that individuals and businesses will in fact be compensated as directed by the courts**; and
- It **relies on the insurance marketplace to determine the type and amount of surety bonding** a MSWLF permit applicant will need.

Why NH Needs to Enact HB 1121 Now

- **If trends continue, NH will become the primary sink for municipal waste from all over New England.**
- New landfills face **huge liabilities for the damages their facilities cause, e.g., from PFAS contamination**. Owner/operators may therefore have significant incentives to “walk-away” from their financial responsibilities for compensation to individuals and businesses that suffer harms.
- A surety bond requirement is a backstop to the liability exposure a permit applicant would face, making it **less likely a permit applicant will tie up courts with needless and/or extended litigation**.

Heather Goley

From: Catherine Corkery <catherine.corkery@sierraclub.org>
Sent: Tuesday, January 18, 2022 4:12 PM
To: ~House Environment and Agriculture Committee
Subject: Testimony for Landfill Bills
Attachments: NHSC testimony on HB1121, HB1049, HB1420 & HB1454.pdf

Honorable Committee Members,
Please find the official testimony from NH Sierra Club on the landfill bills heard today, HB1049, HB1121, HB1420, & HB1454.

Stay well,
Catherine

--

Catherine M. Corkery
Chapter Director
Senior Organizing Representative
New Hampshire Sierra Club
40 North Main Street 2 nd Floor
Concord, NH 03301
Office: 603-224-8222
Cell: 603-491-1929
catherine.corkery@sierraclub.org
<http://www.sierraclub.org/new-hampshire>

Pronouns She/Her/Hers

DONATE TO NH CHAPTER TODAY

Countdown to 2022 Elections

This Organizer is represented by Progressive Workers Union





January 18, 2022

Chair Pearl
NH House Committee on the Environment and Agriculture
NH State House
Concord, NH

RE: Landfill bills, HB1454, HB1420, HB1121

Dear Chair Pearl and Honorable Members,

I am the Chapter Director of the NH Chapter of the Sierra Club. NH Sierra Club (NHSC) is an environmental group whose goal is to protect the environment and the communities on it. NHSC represents over 20,000 members and supporters in New Hampshire.

During the pandemic of COVID-19, NHSC has supported the use of virtual participation in the legislature, including watching hearings and committee meetings, testifying, signing in and other engagement with technology, for our members, supporters, interns, and employees. There was record attendance by Granite Staters in the public hearings. You can understand our disappointment that the 2022 calendar year has not allowed virtual testimony and requires in-person testimony only. While the remote sign-in and emailing testimony remains, I cannot, in good conscience, ask our engaged volunteers to attend hearings or meetings because of the reckless disregard for appropriate health safeguards. I encourage this committee and others to adopt increased protections appropriate for the extreme health risk of the pandemic for public engagement as is the right of all citizens.

The Chapter supports the passage of the various landfill bills:

HB1121 relative to new solid waste sites.

HB1049 establishing a committee to study landfill siting criteria and methods for reducing pressure on landfill capacity.

HB1454 relative to permits for the siting of new landfills.

HB1420 prohibiting the issuance of new landfill permits until the state's solid waste plan is updated.

The Sierra Club's members are over 2.1 million of your friends and neighbors with over 20,000 in New Hampshire. Inspired by nature, we work together to protect our communities and the planet. The Sierra Club is America's oldest, largest and most influential grassroots environmental organization.

New Hampshire Sierra Club 40 North Main Street, Second Floor Concord, NH 03301

603/224-8222 FAX: 603/224-4719

www.sierraclub.org

www.sierraclub.org/new-hampshire

The challenges presented by landfill siting and monitoring to drinking water and the natural landscape are profound in New Hampshire. The goal to protect these natural resources and public health is at the heart of these bills. No one wishes for a landfill to leek but we need to make precautions for when they do. The Sierra Club policy ranks landfilling and incineration of municipal waste as the very last option, recognizing that there are many opportunities to reduce waste before ever needing to bury or burn it. While this list of bills does not address redesigning and reducing waste, these bills do provide creative options to raise the level of public health and the environmental protection.

By providing a new approach, with financial and insurance tools in HB1121, with a different measure for the site placement in HB1454, instituting a pause until the state plan is approved in HB1420 and creating a study commission in HB1049, all of these bills address current problems in landfill siting.

NHSC asks the committee to support passage of HB1121, HB1049, HB1420 and HB1454.

Respectfully submitted,

Catherine M. Corkery

Chapter Director
NH Sierra Club
40 North Main Street, Suite 2
Concord, NH 03301

Heather Goley

From: Mary Menzies <maryhealdmenzies@gmail.com>
Sent: Tuesday, January 18, 2022 9:09 AM
To: ~House Environment and Agriculture Committee
Subject: Support for HB1121

Please support HB1121. This is a very sensible bill that protects the taxpayers. There is no "downside" except to slightly reduce the profits of private landfill operators. Our concern should be to protect our taxpayers.

Thank You,
Mary Menzies
(603) 444-2165 Home
(603) 991-0323 Cell

Heather Goley

From: Tracy Glenn <artb4dishes@gmail.com>
Sent: Saturday, January 15, 2022 10:13 PM
To: ~House Environment and Agriculture Committee
Subject: Please support HB 1121

Dear NH House Environment and Agriculture Committee Members:

Please support legislation, HB 1121.

We require drivers, pilots and doctors to carry insurance. For a reason.

We have seen that landfills have accidents, even under the BEST of circumstances. They need to carry insurance to pay for the damages caused by their actions, negligent or not. Just like other professionals. They can't just say: "Ooops" and turn away.

Your constituents count on you to protect them. Not to protect those causing harm to them.

Thank you for your time and your commitment to doing the right thing for the people you represent.

Tracy Glenn/Glover Family
64 Newell Lane and 43 Maple Street
Whitefield, NH 03598

Heather Goley

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Monday, January 17, 2022 11:56 AM
To: ~House Environment and Agriculture Committee
Cc: Linda Massimilla; Tim Egan; Anita Burroughs; 'brodieforh@gmail.com';
'merchant4nhhouse@gmail.com'; Erin Hennessey; Sanborn, Mark A; Wimsatt, Mike;
Nork, Michael; Crepeau, Adam
Subject: HB 1121 Letter of Testimony
Attachments: HB 1121 LOT - New SW Sites 011821.pdf

Dear Chairman Pearl and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on HB 1121, an act relative to new solid waste sites. Should you have questions about this testimony, or need additional information, please feel free to contact Michael Wimsatt, Waste Management Division Director at (603) 271-1997 or at michael.wimsatt@des.nh.gov.

Thank you. Suzanne

Stay Safe! Be Well!

Suzanne Beauchesne
Office of the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 18, 2022

The Honorable Howard Pearl
Chairman, House Environment & Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

RE: HB 1121, An Act relative to new solid waste sites

Dear Chairman Pearl and Members of the Committee:

Thank you for the opportunity to testify on HB 1121. This bill would establish specific insurance and surety bonding requirements for new privately-owned landfills. NHDES is not taking a position on this bill, but does have some concerns about the provisions of the bill.

First, the bill requires applications for a new solid waste landfill to “submit evidence (to NHDES) that the applicant is in compliance with all insurance and surety bonding requirements of the state and federal government.” At present, NHDES is unaware of any specific state or federal insurance or bonding requirements specifically applied to solid waste landfills. Accordingly, NHDES is uncertain of what effect this provision of the bill would have, or how NHDES would implement or enforce the provision.

Second, the bill requires an applicant to “provide evidence to the jurisdictions in which it will be located, and all adjacent jurisdictions, that the applicant qualifies for and will obtain a surety bond against any and all damages caused to individuals and businesses located within those jurisdictions as a result of operation of the landfill.” It is unclear to NHDES what would constitute “damages,” who would make that determination, and whether and how NHDES would be expected to enforce the provision. Further, given these uncertainties of scope, and our understanding that such a bond would need to be in force and effect for perhaps decades, NHDES questions whether such bonds would be obtainable in the market.

Third, the bill applies these requirements only to new privately-owned landfills. NHDES notes that to the extent that the bill is needed to protect individuals and businesses from damages that may be caused by operation of a landfill, it could be presumed that such damages could also be caused by a publicly-owned landfill.

The Honorable Howard Pearl
Chairman, House Environment & Agriculture Committee
January 18, 2022
Page 2

Thank you again for the opportunity to comment on HB 1121. Should you have further questions or need additional information, please feel free to contact Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

cc: Sponsors of HB 1121: Representatives Massimilla, Burroughs, Egan, Merchant, Deshaies; Senator Hennessey

HB 1121 - AS INTRODUCED

2022 SESSION

22-2737

12/05

HOUSE BILL **1121**

AN ACT relative to new solid waste sites.

SPONSORS: Rep. Massimilla, Graf. 1; Rep. Burroughs, Carr. 1; Rep. Egan, Graf. 2; Rep. Merchant, Sull. 4; Rep. Deshaies, Carr. 6; Sen. Hennessey, Dist 1

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill requires an applicant for a new solid waste landfill to provide proof of insurance and obtain a surety bond against all damages.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
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 Two

AN ACT relative to new solid waste sites.

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

1 1 New Paragraph; Landfill Permitting; Proof of Insurance. Amend RSA 149-M:9 by inserting
2 after paragraph XIV the following new paragraph:

3 XV. Applications for permits to construct and operate a new privately-owned solid waste
4 landfill shall submit evidence to the department of environmental services that the applicant is in
5 compliance with all insurance and surety bonding requirements of the state and federal government.
6 The applicant shall also provide evidence to the jurisdictions in which it will be located, and all
7 adjacent jurisdictions, that the applicant qualifies for and will obtain a surety bond against any and
8 all damages caused to individuals and businesses located within those jurisdictions as a result of
9 operation of the solid waste landfill. The surety bond shall amount to at least the total cost of
10 construction of the landfill, including third-party costs.

11 2 Effective Date. This act shall take effect 60 days after its passage.