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SMITH LEGISLATION TO PROTECT RESIDENTS FROM TOXIC LANDFILLS **APPROVED BY SENATE ENVIRONMENT COMMITTEE**

TRENTON – The Senate Environment and Energy Committee approved legislation sponsored by Senator Bob Smith today that would give the New Jersey Department of Environmental Protection and local governments the tools necessary to protect residents from the negative health and environmental impact of reopened landfills – such as the Fenimore Landfill in Roxbury.

“When the desire to make a profit is put above the health and well being of New Jersey residents, it is our responsibility to step in to protect our state’s children and families. After listening to the heart-wrenching testimony from Roxbury Township residents, I believe that this is the case with the Fenimore Landfill,” said Senator Smith, D-Middlesex and Somerset, Chairman of the Committee. “This legislation will ensure a course of action that residents, municipalities, the DEP and the courts can take to ensure that the owners and operators of our state’s landfills are acting responsibly and are not putting New Jersey residents and their children in danger.”

The bill, S-2861, establishes requirements and controls applicable to “legacy landfills” – landfills closed prior to 1982 and therefore not under the state’s stringent landfill closing requirements – and properly-closed landfills that accept new waste materials.

The legislation is in response to recent testimony regarding the Fenimore Landfill during a May Senate Environment and Energy Committee hearing. The landfill, which was closed in 1977, was purchased in 2010 by the Strategic Environmental Partnership LLC with the expressed plan to properly cap the dump and install a solar generation facility on its surface. The owners of the landfill began to accept new waste, but never built the solar facility. Residents in surrounding neighborhoods, which were developed during the three decades since the landfill was actively used, have raised concerns of strong rotten egg smells, a scent emitted from the release of hydrogen sulfide – a gas produced from the breakdown of waste material that can cause headaches, dizziness and upset stomachs at low concentrations and loss of consciousness and death at high concentrations.

The bill would require the Department of Environmental Protection (DEP) to properly close legacy landfills if the administrative consent order – a legal document between the DEP and one or more outside parties to formalize specific responsibilities for a site – were to be found void. Under the bill, the order would be voided if the financial requirements in the order are not met, the person entering into the order made or submitted any misrepresentation, misleading statements or suppressed material facts when entering into the agreement, or there was fraud, misrepresentation or deceit in securing the license issued.

The bill would require that any owner or operator of a legacy landfill or properly-closed landfill that accepts new waste material must apply for and obtain site plan approval from the local land use board.

“The state Department of Environmental Protection has stringent standards for how to properly close a landfill to not only protect the environment, but to ensure the health and well being of local residents. Unfortunately, there are older landfills in the state that were not held to these standards and when something changes in their management – for example a new owner steps in – it is important that we ensure that they are not managing the property in a way that negatively affects our water, soil or air supply,” said Senator Smith.

The bill would also establish a maximum air quality standard for hydrogen sulfide of 30 parts per billion averaged over a period of 30 minutes. If a violation of air quality standard occurs at or within two miles of the landfill’s property boundary, the DEP, county, municipality or anyone living within

two miles of the landfill's boundary could bring an action to the NJ Superior Court for injunctive or other relief. Under the bill, the court would be required to ensure the violators abate the situation.

The bill would require that the owner or operator of a legacy landfill or properly closed landfill that accepts waste material to establish and maintain financial assurance in an amount necessary to pay for the closure costs and to provide funds for damages and claims necessary.

Lastly, the bill would require that owners and operators of a legacy landfill or properly closed landfill that accepts waste material hire a licensed site remediation professional to perform closure, remediation or redevelopment projects until the cessation of all activity and the final closure of the landfill.

The bill was approved by the Committee with a vote of 5-0.