

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – First Regular Session

**COMMITTEE ON ENVIRONMENT**

Minutes of Meeting  
Tuesday, February 1, 2011  
House Hearing Room 5 -- 2:00 p.m.

Chairman Reeve called the meeting to order at 2:00 p.m. and attendance was noted by the secretary.

**Members Present**

Mr. Ableser  
Ms. Alston  
Mrs. Carter

Mr. Crandell  
Mr. Pratt

Ms. Fann, Vice-Chairman  
Miss Reeve, Chairman

**Members Absent**

None

**Committee Action**

HB2104 – Discussed and Held One Week

**PRESENTATION:**

**Arizona Department of Environmental Quality (ADEQ)**

Henry Darwin, Acting Director, Arizona Department of Environmental Quality (ADEQ), gave a PowerPoint presentation on “Arizona Border Trash Impact” (Attachment 1). He advised that tighter enforcement on migrant routes from Mexico into Texas and California in the ‘90s made Arizona the main gateway for illegal immigrants. The longer the journey, the more baggage immigrants carry, and discard, along the way. The number of apprehensions by Border Patrol agents on the U.S.-Mexico border has declined significantly over the past five years because of tighter border controls. The recession, which has resulted in fewer jobs, has also impacted the number of illegal immigrants trying to enter the U.S. The Border Patrol’s 262-mile-long Tucson Sector has 71 miles of fencing, but it remains the busiest people- and drug-smuggling route on the border.

Mr. Darwin advised that federal, state, and local agencies and a wide variety of volunteer groups regularly organize and conduct trash cleanup along the border. The Solid Waste Management Department of the Tohono O’odham Nation has determined that each migrant leaves behind six to eight pounds of trash during a crossing. Federal grants are given to state and local agencies to clean up the trash left by illegal immigrants. He provided statistics on the amount and types of

trash collected in different areas of the border region as well as showing photos of areas that contain high concentrations of trash left behind.

Vice-Chairman Fann asked what the average annual amount of trash is that is being picked up. Mr. Darwin said he will try to provide that information.

In response to Mr. Crandell, Mr. Darwin advised that illegal immigrants change routes regularly to avoid the Border Patrol, and he related that is part of the challenge of collecting the trash. Many times the effort is complicated by the remoteness of the area. He noted that it is difficult to get volunteers and equipment into these remote areas.

Mrs. Carter asked whether the information in this presentation can be shared with others, such as constituents. Mr. Darwin replied in the affirmative.

Mr. Ableser asked whether part of the problem is due to neighboring states dumping their trash in Arizona. Mr. Darwin said the Department is not encountering issues with border states dumping their solid waste in Arizona.

In reply to Mr. Ableser about finding trash in camping grounds or wildlife refuges from illegal immigrants, Mr. Darwin answered that they generally stay away from areas where they may encounter people.

In reply to Chairman Reeve, Mr. Darwin advised that the Department coordinates with the landowners to access sites where dumping occurs. He said no one wants to impinge on the rights of others.

Mr. Crandell asked whether ADEQ considers the solid waste found to be a hazardous material or just an eyesore. Mr. Darwin replied that it is usually just waste, unless certain hazardous items are found, such as needles or drug paraphernalia. Chairman Reeve commented that it is an environmental hazard to the land. Mr. Darwin stated that the Department tries to protect the environmental beauty of the land.

Mr. Crandell asked for the percentage of public Bureau of Land Management (BLM) land in the state. Mr. Darwin said he will have to get that information. Mr. Crandell opined that the federal government should take care of cleaning up its own land. Mr. Darwin mentioned that the federal government provides grants to the state and local agencies for the cleanup. Mr. Crandell argued that it should be the federal government's responsibility.

In response to Mr. Ableser, Mr. Pratt revealed that legislation last year addressed illegal dumping in rural areas of his district instead of using landfills. Mr. Darwin related that is more of a county issue than a state issue.

#### **CONSIDERATION OF BILL:**

#### **HB2104 – trash collection; multifamily housing. – DISCUSSED AND HELD ONE WEEK**

**Vice-Chairman Fann moved that HB2104 do pass.**

Jennifer Londono, Majority Intern, explained that HB2104 clarifies the meaning of commercial services to include services to apartment communities that use commercial solid waste or recycling containers (Attachment 2).

Vice-Chairman Fann announced the names of those who signed up in support of HB2104 but did not speak:

John Moody, representing Waste Management

Joseph Abate, representing National Solid Waste Management Association, Arizona Chapter

Vice-Chairman Fann announced the names of those who signed up in opposition to HB2104 but did not speak:

Joseph Brehm, Management Intern, City of Prescott

Chad Heinrich, Government Relations Coordinator, City of Tempe

Chad McDowell, Field Operations Manager, City of Prescott

Scott Butler, City of Mesa

Jacqueline Walker, Intergovernmental Relations, City of Kingman

Connie Scoggins, Assistant City Attorney, City of Yuma

Todd Baughman, City of Tucson

Brent Stoddard, Director of Intergovernmental Programs, City of Glendale

Michelle Gramley, Town of Gilbert

Ryan Harper, representing City of Sierra Vista

Steve Kemp, City Attorney, City of Peoria

Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns, stated opposition to HB2104. He asked that Patrick Bourque, City of Flagstaff, and Steve Kemp, City of Peoria, be allowed to speak.

Patrick Bourque, Solid Waste Director, City of Flagstaff, stated the City's opposition to HB2104. He said that passage of the bill will have a negative financial impact on the residents of Flagstaff. Ordinances have been passed and infrastructure has been built in Flagstaff to deal with solid waste and recycling services. Other services are also provided to residents. Flagstaff calculates its rates to cover the cost of the infrastructure and the various services it provides based on the number of residential customers and the type of service provided to them; multi-family housing is included in this group. If this legislation passes, it will allow competitors to deliver services to those customers. Competitors do not have to provide the additional services that Flagstaff has to provide; their costs will be lower and their rates for service can be lower, whereby Flagstaff will lose revenue and customers. The City cannot reduce the cost of infrastructure which would have to be borne by the remaining residential customers. If Flagstaff loses its apartment customers, it will lose approximately \$700,000 of revenue which is approximately 25 percent of the revenue for that program and that would translate into a loss of two job positions.

Maher Hazine, Deputy Public Works Director, City of Peoria, testified against HB2104. He said the City works diligently to ensure that solid waste service is provided in the most effective and efficient manner to everyone, whether they own or rent. The issue with this legislation is that it allows private haulers to choose those complexes that are newer and easier to service, and which tend to be more profitable, leaving the older complexes to the City which tend to be more costly to service. The City of Peoria asks that Members do not pass this legislation but allow all parties

to get together to look at the issues and come up with a solution that provides an holistic approach for all the services to everyone.

Discussion ensued on the definition of *commercial*, apartment complexes being included in that definition, who pays the cost of pick-up service for multi-family dwellings, contracting with private enterprises, etc.

Courtney LeVinus, Arizona Multi-Housing Association, in support of HB2104, said the issue is whether apartment complexes are commercial. Apartment communities are zoned residential or high-density residential or multi-family residential. Under the city building code, apartment complexes are built under the commercial building code. Property taxes are paid under residential rental; however, the transaction privilege tax fee is under the business license. When it comes to solid waste, apartment communities are identical to *commercial*. Many cities consider these communities to be commercial and allow them to opt out of the city program and they are able to contract with private haulers; however, that varies by jurisdiction. She indicated the fact sheet lists the municipalities that offer solid waste services for apartment communities and prohibit private enterprise companies (Attachment 3). She advised that complexes would prefer to be classified as commercial in order to contract for the best rate. She stated that the Association is willing to address issues raised by the cities.

Mr. Ableser raised questions about condominiums and said he sees confusion and inconsistencies in the bill.

Chairman Reeve stated that she will hold the bill pending further work to address issues that Members raised.

**Vice-Chairman Fann moved to withdraw her motion that HB2104 do pass.  
The motion carried by voice vote.**

Chairman Reeve announced that HB2104 will be held one week.

Without objection, the meeting adjourned at 3:09 p.m.

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Joanne Bell, Committee Secretary  
February 3, 2011

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)