

Hon Edgar Flores, Chair,
Senate Committee on Government Affairs (GA)
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May 2, 2025

To the Members of the Senate Committee on Government Affairs (GA):

Subject: **OPPOSE** AB 10 lacking amendment

I am a long time Las Vegas Nevada HOA owner who at the time of purchase was unaware the sewer lines my home connected with, feeding into the public system, were owned by my Homeowners Associations (HOA).

AB 10 represents a necessary and welcome **initial** step. In doing so however, I believe it is essential lawmakers recognize that it does not resolve the fundamental issue - allowing private water and sewer systems to operate within HOAs. This bill, in my view, acts as little more than a patch to a problematic, and what *should* be a legacy policy framework. As such, I oppose AB 10 lacking further amendment.

Municipalities allowed, and in some cases continue to allow, private water and sewer systems in HOAs because it was (is) the **path of least resistance**—financially and politically. Unamended AB 10 will be a continuation of this trend.

I have attempted to work with the representative of the City of Henderson, the bill's sponsorship. Not unexpectedly, they refused once again taking a path of least resistance. I also suspect it would require an unwanted look in the mirror for the problem it and other governmental entities created.

The privatization of what is generally recognized as public infrastructure via HOAs is pursued as the most expedient option, offering perceived financial and political advantages through reduced immediate public expenditures and accelerated development timelines. However, we now understand that this policy approach lacked sufficient long-term consideration. In the case of private sewer and water systems, they are susceptible to inadequate oversight, pose potential long-term risks for residents, and can ultimately become a financial and operational issue for local governments when failures inevitably occur.

A private water or sewer lines owned by an HOA is a legacy problem for many Nevada municipalities. **And where it is not, it needs to be.**

The City of Henderson has correctly concluded it had to act assisting the Somerset Park HOA. For those municipalities that have not yet encountered this issue, it is a problem on the horizon. The legal authority to do so, which AB 10 would provide, is needed. However, the "discretionary" authority granted to use the "tool" that is AB10, as David Cherry, City of Henderson Public Affairs Director called it, is of concern.

The City of Henderson rightly acknowledged health and safety concerns at Somerset. It is equally important the City - and the municipalities and counties sure to follow- acknowledge their historical roles contributed to the current landscape of private utility system issues within HOAs.

Therefore, I strongly propose that AB 10 be strengthened. First, it should require the orderly and responsible transfer of private systems requiring intervention to the relevant municipal or regional utility. Without the inclusion of such a provision, the "path of least resistance" will persist, perpetuating the cycle of problems and liabilities associated with these privatized systems.

Second, require all HOAs that are currently operating and maintaining a private sewer system register with the Nevada Real Estate Division (NRED) by a specified date, such as January 1, 2026, to establish a comprehensive inventory. To be clear, this is not about a "toothless or ineffective regulator"- despite my agreeing with that descriptor.

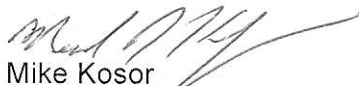
Third, mandate as a condition of using the AB 10 "tool" municipalities develop clear and actionable plans for the voluntary transfer of private sewer systems from HOAs to established municipal or regional sewer utilities, outlining the processes and requirements involved. "Like new" standards for transfer are problematic.

Fourth, prohibit supermajority owner acceptance criteria in existing and future Covenants, Conditions, and Restrictions (CC&Rs) that impede the transfer of water or sewer systems to public entities. Note: consideration should be given to extending this prohibition to other typically public infrastructure, such as roads, "pubic" parks, and street lights, which may face similar transfer challenges in the future. Public health and safety should be the driving criteria.

Additional considerations are listed below.

Simply addressing Somerset Park HOA governance shortfalls would be shortsighted. As I noted earlier, this is not an issue for NRED- despite many others involving NRED this body needs to address. Do not lose sight of the fact the very necessity of AB 10 stems directly from past decisions of municipalities and counties that prioritized short-term cost-shifting and political expediency over the long-term well-being of residents and the sustainability of critical infrastructure. If AB 10 passes unamended you too will be accused of taking the path of least resistance in the years to come.

Respectfully,



Mike Kosor
HOA resident

Founder, Nevada HOA Reform Coalition

For consideration, find below policy recommendations aimed at providing a comprehensive and lasting solution to water and sewer privatization via HOAs:

- Establishment a dedicated "sewer stabilization fund" that could offer matching grants or low-interest loans to HOAs to facilitate the transfer process and address any necessary upgrades or repairs. It is rather common for public water and sewer agencies to acquire mutual water/sewer companies or other privately owned utility systems.
- Actively support emergency response efforts in the event of significant private sewer system failures to protect public health and the environment.
- Implement fair and equitable cost-sharing agreements between HOAs and the acquiring utility to ensure a smooth and financially viable transfer process for both parties.
 - Consider surcharge metering to recover costs as an alternative to NIDs

- Require municipalities wishing to use the “tool” AB 10 provides amend existing zoning and subdivision codes to require connection to public utilities for all new residential developments located within or in reasonable proximity to established utility service areas, preventing the creation of new private systems. Plus,
 - Strictly limit exemptions to the mandatory connection requirement to only those specific situations where connection to public utilities is demonstrably and permanently infeasible due to geographical or technical constraints.
 - Require developers proposing the installation of private water or sewer systems to submit a comprehensive transition plan outlining the detailed process for transferring the system to public control within a clearly defined and reasonable timeframe (e.g., 10–15 years from the date of system installation). Installer to provide construction drawings, as built markups, and survey located maps.
 - Include specific requirements for the establishment and maintenance of adequate financial reserves and the completion of thorough engineering evaluations as integral components of the developer's required transition plan to ensure the long-term viability and transferability of the systems.
 - Mandate that all new private water and sewer systems be constructed to the same rigorous standards and specifications as public utility infrastructure to facilitate seamless integration into the public system upon transfer.
 - Require comprehensive third-party inspections of private systems during construction and regular annual reporting on their ongoing performance and compliance with relevant regulations to ensure proper maintenance and operation.
 - Consider implementing a bonding requirement for developers of private water and sewer systems to provide a financial mechanism to address potential system failures or to facilitate the eventual transfer to public control.