

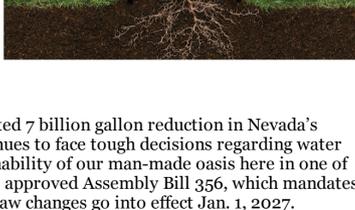
The 2021 legislative session didn't leave associations slowly limping away to assess their wounds as previous sessions have, but HOAs didn't make it through unscathed either. Law changes that go into effect mostly in October, and one that goes into effect January 2027, will impact the day-to-day operations and the aesthetic of many properties as well as association budgets.

All the while, in the wake of COVID, associations are still looking toward an uncertain future that may or may not include any new governor's mandates, in addition to rising costs at every turn due to inflation.

See below for information on some of the most impactful law changes and some discussion about association finances.

### AB 356

**Interview with JC Davis, SNWA**  
**By: Ashley Livingston, CMCA, AMS,**  
**Vice President**



One of the laws taking effect in the fairly near future promises to cause our desert city to look like more of a ... well ... desert.

Given drought conditions and an anticipated 7 billion gallon reduction in Nevada's water allocation for 2022, the state continues to face tough decisions regarding water usage. As part of efforts to ensure sustainability of our man-made oasis here in one of the driest areas of the country, legislators approved Assembly Bill 356, which mandates the removal of nonfunctional turf. These law changes go into effect Jan. 1, 2027.

While we technically have a little more than five years to grapple with the impending loss of the nonfunctional green, JC Davis, manager of the Enterprise Conservation Division of the Southern Nevada Water Authority, strongly suggests that associations make plans and move forward on turf conversions sooner rather than later. "The one thing I would caution property owners about is that the laws of supply and demand dictate that as demand goes up, as people want to get into compliance, prices are going to rise for both materials and landscape services," Davis said.

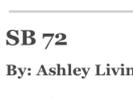
As it stands, the SNWA offers a reimbursement of \$3 per square foot of grass removed as part of its Water Smart Landscapes Rebate program. Davis assured that the SNWA is still budgeting funds to continue to pay the Water Smart Landscapes program. "There are no immediate changes planned," he said. However, he cautioned that as the deadline approaches, he would be very surprised if the SNWA considers to incentivize people to do a thing they're legally required to do. "I would encourage people not to be the last ones on the train," he said.

So, exactly what areas of our communities are impacted by this new law? The SNWA has formed an advisory committee that comprises professionals and representatives from association management, property management, multi-family dwelling management, the landscape community, environmentalists and business. Davis said he anticipates that the committee will have prepared its recommendations for defining nonfunctional turf no later than the end of February 2022. The SNWA Board of Directors will then approve and finalize the recommendations, which Davis said he anticipates will be done shortly thereafter.

Generally speaking, he said, we tend to use the lawnmower test when determining if something is functional or nonfunctional; if the only person who ever walks on a strip of grass is pushing a mower in front of them, then it's nonfunctional. Additionally, the committee is well aware of an issue in this discussion that may cause some contention: what to do about pet relief areas. Davis said the committee will be closely reviewing how to handle strips of grass that are used mainly for dog walking.

The advisory committee's meetings are open to the public and may be viewed online. Comments may be submitted electronically for consideration. For more information, visit [www.snwa.com](http://www.snwa.com).

### AB 301



An update to statutes related to towing may necessitate a change to parking/tow policies. Effective Oct. 1, associations may no longer tow solely for a vehicle's registration being expired.

Additionally, if a tow is to be conducted for a vehicle being unregistered and the vehicle owner provides proof that the vehicle is registered (in Nevada or elsewhere), the tow operator must immediately release the vehicle to the owner and the owner is not responsible for fees to have the vehicle released. Association boards should consult with their association attorney and tow vendors to ensure the HOA's enforcement actions and policies are compliant with these new statutes.

### SB 72

**By: Ashley Livingston, CMCA, AMS, Vice President**

Health, safety and welfare fines are probably the association's most power-packed remedy when it comes to addressing conditions or acts that threaten the safety of the community. Per existing law, not only is the fine amount commensurate to the severity of the violation (which can be well in excess of \$100), but if the fines go unpaid, the association can actually foreclose on the unit, resulting in someone losing their home.

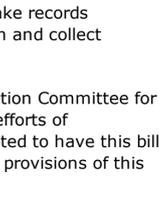
With such power comes a great responsibility. What actually constitutes a violation that poses an imminent threat of causing substantial adverse effect on the health, safety or welfare of units' owners? While some situations — for instance, an individual brandishing a firearm at the association's courtesy patrol service — are typically pretty clearcut, there are countless scenarios that fall into a more gray area. Additionally, what fine amount is appropriate for these serious violations? \$1,000? \$10,000?

Enter law changes per Senate Bill 72, which mandate that the Commission for Common Interest Communities (the Commission) adopts regulations defining health, safety and welfare violations and provides guidelines for corresponding fine amounts.

While all provisions of this bill became effective upon passage and approval, it will take some time for the Commission to review, approve and disseminate the new regulations. Additionally, this bill cleans up some facets of the law that were previously a little more open to interpretation. Changes include, but are not limited to, clarifying that there is no cap on continuing fines for violations that go unremedied; clarifying statute related to open hearings; and requiring that a notification of the result of a hearing be sent following the meeting, a practice that was already widely in place.

### AB 249

Does your association restrict construction noises during certain times of the day/night? Per changes to statute effective Oct. 1, between the months of May and September, the HOA's rules cannot be more restrictive than the rules of the city or county in which the HOA is located. Times during which construction noise is permitted by local cities or the county are as follows:



-Unincorporated Clark County: "daytime hours" Per Code enforcement website, 6 a.m. to 10 p.m. is permissible.

-Las Vegas: 7 a.m. to 6 p.m.

-North Las Vegas: 6 a.m. to 9 p.m.

-Henderson 6 a.m. to 6 p.m.

### SB 186

**By: Ashley Livingston, CMCA, AMS, Vice President**

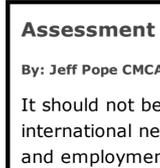
Senate Bill 186 puts new requirements on associations to make records available online, and impacts how we disseminate information and collect outstanding debts.

Through Level's employees' participation in the Legislative Action Committee for Nevada Association of Community Managers and grassroots efforts of communicating with lawmakers and the governor, we attempted to have this bill shut down. Unfortunately, our efforts were unsuccessful, and provisions of this bill take effect between Oct. 1 and January 2023.

**As of Sept. 27, the Nevada Real Estate Division has placed a 120-day "pause" on enforcement of a provision of this bill that became effective Oct. 1. The language of the adopted version of the bill states that associations are required to send notices both electronically and via mail.** This would mean that all of the headway associations have made over the years in reducing mailing costs by sending HOA communications via email only (where permitted by law prior to this bill's passage) would be gone, as we would have to distribute "any communication from or other information provided by the association" to every mailing address within the community. Per Sharath Chandra, administrator of the Nevada Real Estate Division, the adopted language contradicts the legislative intent behind the bill. As such, luckily for associations, NRED will not enforce the provisions as written while we wait for the state's Legislative Counsel Bureau to review and codify the bill in a manner consistent with the legislative intent. In other words, this costly and antiquated requirement of mailing all communication and information looks to be going away via to-be-made corrections to wording.

**Effective between January 2022 and January 2023, associations that contain 150 or more units must provide electronic access to documents and must establish electronic payment options.** Level is happy to note that we have had your associations covered for compliance with these new requirements. Via our standard free association website, your homeowners already have enjoyed access to documents and the ease of online payment for the past several years.

**Effective Oct. 1, any person or entity involved with the foreclosure process for the association, including the association, cannot purchase a unit at a foreclosure sale.** Members of the board, the community manager and any other person who exercised discretion in any decision relating to the foreclosure of the lien also cannot purchase a unit at the association's foreclosure sale. The bill also puts new reporting obligations on licensed collection companies that include tracking and reporting the names of each association for which the collection agency collected a debt, the total amount of money collected and the ZIP code of each debtor. Your Level team strongly recommends that all association boards discuss all impacts of these statutes with your contracted collection agents.



### AB 237

Assembly Bill 237 defines parameters for the products associated with the sale of a unit, including resale certificates and new owner setup fees, and sets limitations on the associated fees. These charges are never assessed to the association, per Level's contract, but rather to the buyer or seller of a home, as appropriate. This bill also requires that an expedited complaint process be set up through the Nevada Real Estate Division for any disputed fees, and it allows for an increase in the price for a demand or intent to lien letter.

### Assessment Increase Coming

**By: Jeff Pope CMCA, Supervising Community Manager**

It should not be a surprise to anyone following the national and international news that COVID-19 has disrupted manufacturing, shipping and employment. Along with natural disasters, the pandemic caused a lack of building supplies, food staples and workers in the past 18 months.

These factors take a direct toll on the HOA world also. Contractors are having problems staffing and keeping up with basic maintenance and enhancement projects. Utility costs are rising due to demand as more people work from home. Overall inflation was up 5.3 percent in August over the past 12 months. These factors lead to rising costs that are passed on to the end users – the homeowners and residents of our associations.

So with all that's happened to supply chains and employment, homeowners must expect an increase in the assessments starting in January. Tenants should expect an increase in rents also.

First, realize what these assessments are covering. Nearly every expense is listed in the annual budget, except for unforeseen repairs and maybe a few trivial low-cost items. Mostly, the assessments pay for the maintenance of the amenities.

Homeowners are not paying for access to the amenities, but they pay for the people who clean and repair them. In other words, you pay for people's time and time is not free.

Workers want raises and benefits. Currently, there are more jobs than people willing to work them. Employers are competing for the best workers available and these companies pass their costs onto the end users. This is American capitalism.

As purchasers, we want the best but are not willing to always pay for it. We'd love to drive a Ferrari but can only afford a Chevrolet. There's nothing wrong with a Chevy, but we need to remain realistic in our expectations and live within our means.

There are two other factors to consider for why assessments need to increase. One is from what happened in Surfside, Fla., in June and the other is what happened in Carson City this past spring.

The condo building collapse near Miami should have every board and homeowner thinking about maintenance and funding the reserve account. While we don't all live in high rises, there are numerous other items that could fail and cause injury or death. States' legislatures are looking at their own laws requiring inspections and reserve funding in associations. It'll be two years until Nevada's lawmakers take up the subject, but we should all plan for that inevitability now.

Changes made to Nevada laws in this year's legislative session also will impact associations' budgets starting soon.

Senate Bill 186 forces associations to expend funds in two ways. First, every association with at least 150 units must establish a website for homeowners to access community documents. Those with less than 150 units are "encouraged" to set up a website. Many associations probably already have such a site, and those contracted with Level enjoy this as a standard free management service, but those that don't will need to get it up and running by Jan. 1.

On the bright side, the Nevada Real Estate Division announced Sept. 28 that associations will dodge a financial hit by not requiring associations to send notices and communications by email and mail. The Division's announcement that the Legislative Counsel Bureau (LCB) will correct language of the bill to reflect the legislative intent of increased email communication may come a little late as some associations have already budgeted increased funds for postage and copies in anticipation of this bill's implementation.

Nearly every business asks their customers if they want to be contacted by mail, email, text or a phone call. Association members should also retain that right to choose. Members of the industry eagerly await the LCB's final wording of the law changes and it is hoped that any additional funding boards may have set aside for increased postage and copies in 2022 budgets may be allocated elsewhere.

It will become more costly for homeowners who fall behind in their assessment payments. Assembly Bill 237 caps some of the fees management and collection companies can charge but also added a provision that will allow the new owner setup fee, which is tied to inflation but not to exceed 3 percent. These costs are borne by buyers and sellers of properties but also by delinquent homeowners. So setting up auto bill pay (ACH withdrawals) may save owners time and money.

With increases in costs for goods, labor and legislative changes now and expected in the near future, board members need to scrutinize their budgets and reserve funding to perform their fiduciary duties.

Communicate with the homeowners the need for budgetary changes and that effective planning is key to avoiding costlier problems in the years ahead.

To learn how we can take your community to the next [Level](#), please contact [Anne Calarco](#) for a free proposal at 702-433-0149.

