

DATE SUBMITTED May 8, 2019
 SUBMITTED BY Laura Gutierrez
 DATE ACTION REQUIRED May 15, 2019

COUNCIL ACTION
 PUBLIC HEARING REQUIRED
 RESOLUTION
 ORDINANCE 1ST READING
 ORDINANCE 2ND READING
 CITY CLERK'S INITIALS

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: **DISCUSSION/ACTION – ACCEPTANCE OF THE WATER AND SEWER CAPACITY FEE STUDY.**

- 1. ACCEPTANCE OF THE WATER AND SEWER CAPACITY FEE STUDY.

DEPARTMENT INVOLVED: **FINANCE DEPARTMENT**

BACKGROUND/SUMMARY:

On August 14, 2018 Bartle Wells Associates completed the attached Water and Sewer Capacity Fee Study which is designed to equitably recover cost of infrastructure and new development. The last capacity fee increase was in April 2011.

The new capacity fees include for expansion to the existing Treatment Facilities.

FISCAL IMPACT:
 No fiscal impact.

F.O. INITIALS 

STAFF RECOMMENDATION:

After the review and consideration by the Finance Department, it is recommended that the City Council accept the Water and Sewer Capacity Fee Study as presented and provide staff with direction for implementation of new capacity fees.

MANAGER'S RECOMMENDATION:

MANAGER'S INITIALS 

After the review and consideration by the City Manager, it is recommended that the City Council accept the Study.

MOTION:

SECONDED: APPROVED REJECTED
 AYES: DISAPPROVED DEFERRED
 NAYES:
 ABSENT: REFERRED TO:



Water and Sewer Capacity Fee Study

August 14, 2018



BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS



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INDEPENDENT PUBLIC FINANCE ADVISORS

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August 14, 2018

City of Imperial
420 South Imperial Avenue
Imperial, CA 92251

Attn: Stefan T. Chatwin, City Manager

Re: Water & Sewer Capacity Charge Update

Bartle Wells Associates is pleased to submit the attached *Water & Sewer Capacity Charge Study*. The report develops updated capacity charges designed to equitably recover the costs of water and sewer system infrastructure and assets benefiting new development.

Proposed charges for new residential connections are as follows:

	<u>Existing</u>	<u>Proposed</u>
Water Capacity Charge per 1" meter equivalent	\$2,213.78	\$2,427.00
Sewer Capacity Charge per SFR equivalent	\$1,844.82	\$2,883.00

Please contact Bartle Wells anytime if you have questions about the recommendations presented in the report or other related issues.

Yours truly,

Doug Dove, CIPFA
Principal

Erik Helgeson, MBA
Consultant

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Appendix A – Government Code Pertaining to Water & Wastewater Capacity Charges

1. Background, Objectives, & Government Code

Background

The City of Imperial (City) provides water and sewer service to over 5,400 accounts, serving a population of approximately 17,000 people who live both in and adjacent to the City.

The City levies water and sewer capacity fees on new or expanded connections to the water and sewer systems. These charges are levied as a condition of development or change in use and are designed to recover the cost of capacity in infrastructure and assets benefitting new development.

Capacity charges are one-time fees, paid up-front as a condition of new development or expansion. Capacity charges are separate from the City's rates for water and wastewater service. New connections begin paying the City's water and wastewater rates after they have paid their capacity charge and become ongoing customers.

The City retained Bartle Wells Associates to update the City's water and sewer capacity charges with the goals of developing new charges that:

- Recover the full costs of water and wastewater system infrastructure and assets that benefit new or expanded development to help ensure that growth pays its own way;
- Equitably recover costs based on the new or increased capacity needs of new development or redevelopment;
- Are consistent with industry-standard practices and methodologies;
- Comply with government code.

Government Code

Fees for development projects are governed by California Government Code Section 66000 et. seq. This section of the Code was initially established by Assembly Bill 1600 (AB 1600) and is commonly referred to as the Mitigation Fee Act. Pursuant to the Code, a fee for a development project is not a tax or special assessment but is instead voluntary charge levied to defray the cost of public facilities needed to serve a new development.

Section 66013 of the Code specifically governs water and wastewater capacity charges. This section of the Code defines a “capacity charge” to mean “*a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged.*” The Code distinguishes “capacity charges” from “connection fees” which are defined as fees for the physical facilities necessary to make a water or sewer connection, such as costs related to installation of meters and pipelines from a new building to a water or sewer main.

According to the Section 66013, a water or wastewater capacity charge “shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed” unless approved by a two-thirds vote. As such, the capacity charges calculated in this report represent the maximum charges that the City can levy. Section 66013 does not detail any specific methodology for calculating capacity charges.

Section 66016 of the Code identifies the procedural requirements for adopting or increasing water and wastewater capacity charges and Section 66022 summarizes the general process by which the charges can be legally challenged. The full text of Sections 66013, 66016 and 66022 are attached in Appendix A.

Proposed Water & Sewer Capacity Charges

This report develops updated water and sewer capacity charges designed to equitably recover the costs of facilities and assets benefitting new development. The recommended charges are based on an *average cost approach* under which new or expanded connections would fund their proportionate share of costs (in current dollars) for capacity needed in existing and planned water and wastewater system facilities and assets. Under this approach, new connections pay for the average cost of facilities needed to serve the City’s service area through build-out.

2. Capacity Charge Methodology

Average Cost Approach

BWA recommends use of an *average cost approach* to calculate updated water and sewer capacity charges. Under this approach, new connections buy in for a proportionate share of capacity needs in existing and planned water and wastewater system facilities and assets. The fees are calculated based on the total cost of facilities including planned upgrades and expansions, divided by the total capacity the City is projected to serve through build-out. Hence the charges recover the average cost of capacity in infrastructure and assets through build-out. The *average cost approach* is a widely used and accepted approach for calculating capacity charges, particularly for service areas that are largely built out but require additional infrastructure improvements to meet the demands of anticipated growth and redevelopment.

Facility Cost Valuation

There are a number of widely-used methods for valuing infrastructure and assets for cost recovery via capacity charges. BWA evaluated various valuation methods summarized below. The capacity charges calculated in this report use a combination of valuation approaches:

- a) cost recovery for the sewer treatment plant cost is based on the *Estimated Replacement Cost* of the existing plant per engineering cost estimates, and b) recoverable costs for other water and sewer utility infrastructure and assets are based on *Original Cost Escalated into Current Dollars* to account for construction cost inflation.

A) Replacement Cost New Less Depreciation – This approach escalates the depreciated accounting book value of each asset escalated into current dollars based on the change in the Engineering News-Record (ENR) Construction Cost Index from each asset’s acquisition date. The ENR index is a widely-used index for determining construction cost inflation. This method has a couple of shortfalls including: a) it is based on a conservative estimate of depreciable life used for accounting purposes, which can be significantly shorter than the actual life of assets, b) it puts the full burden of depreciation on the existing customer base, even though facilities were sized and constructed to serve growth. For example, if a facility cost \$100,000 and had capacity to serve 100 connections, the average cost per connection would be \$1,000. However, under this valuation approach, a customer connecting in 20 years might only have to pay the equivalent of \$500 adjusted for inflation if the asset had a 40 year accounting life. Capacity

charges calculated under this approach do not reimburse the existing customer base for the full inflation-adjusted cost of facilities they essentially pre-funded to serve future growth.

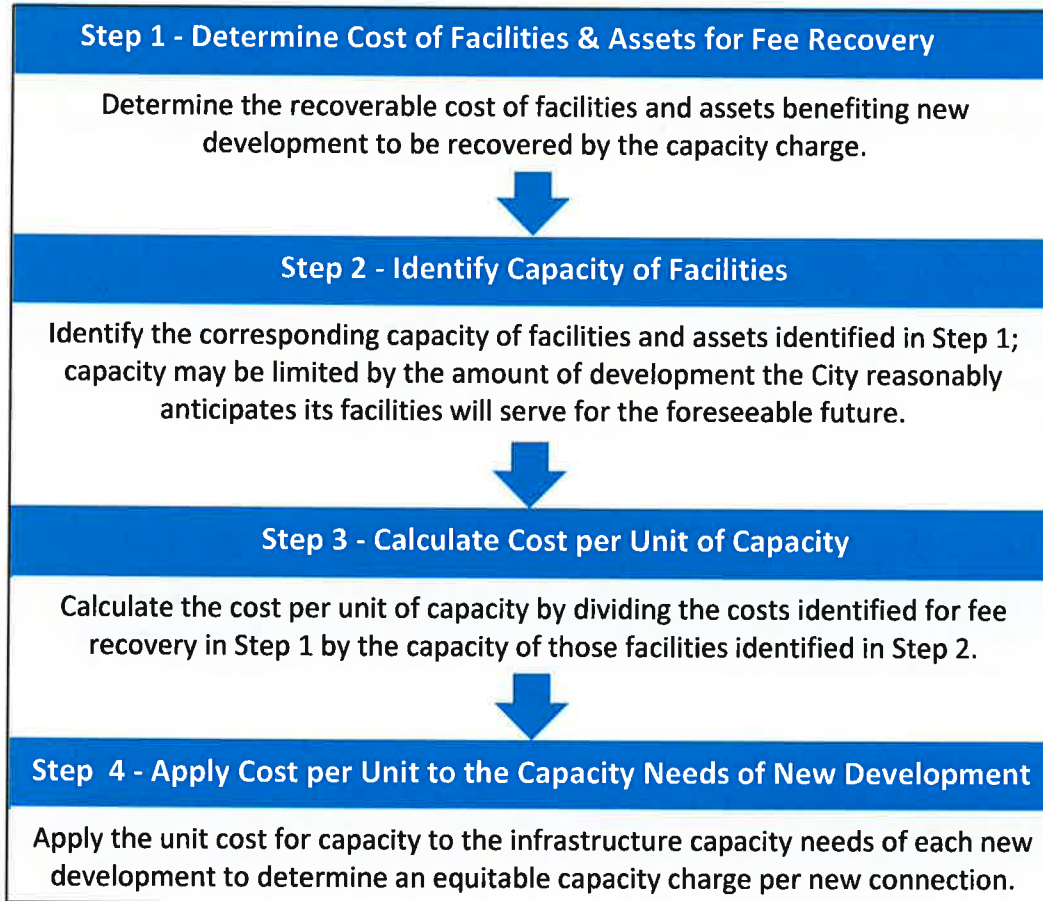
B) Original Cost Escalated into Current Dollars – This approach escalates the acquisition price of each asset into current dollars using the ENR Construction Cost Index to account for construction cost inflation. This approach ensures that new connections buy-in for the full inflation-adjusted cost of facilities that were previously funded and constructed to serve growth, regardless of when the new customer opts to connect. While less conservative than the approach listed above, this approach is still conservative in that it a) may substantially underestimate the actual replacement cost of existing facilities, b) does not account for the theoretical cost of interest associated with the implicit loan existing customers have provided for future development by prefunding facilities for growth, and c) does not account for the historical cost of maintaining capacity in existing infrastructure that benefits growth.

C) Estimated Replacement Cost – Under this approach, the current (or replacement) value of existing facilities is estimated based on an inventory of existing assets (e.g. pipelines by linear footage) and the current estimated costs of constructing those facilities based on engineering estimates.

General Fee Methodology

The general methodology used to calculate updated water and sewer capacity charges is summarized below.

Capacity Charge Methodology



3. Water Capacity Charge Calculation

Current Water Capacity Fees

The current capacity fee per equivalent dwelling unit is \$2,213.78.

Water System Fixed Assets

Under the methodology used in this report, updated water capacity charges are designed to recover the cost of existing water system facilities and assets (in current dollars) as well as the cost of system upgrades and expansion needed to serve the City through buildout.

Table 1 shows a summary of existing water system fixed assets along with the cost of each type of asset escalated into current dollars based on the change in the Engineering News-Record (ENR) Construction Cost Index (20-Cities Average Index) from the acquisition date of each asset to 2017.

Table 1 – Water System Fixed Assets

Asset Description	Replacement Cost New Less Depreciation^{1,2}
Infrastructure	\$7,074,002
Building & Improvements	\$45,403
Equipment & Machinery	\$478,197
Vehicles	\$0
Equipment	\$1,124,734
<u>Transmission and Distribution System³</u>	<u>\$22,294,358</u>
Total Asset Value	\$31,016,694

1, Source: City of Imperial Equipment and Depreciation Schedule

2, Replacement cost estimated by inflating the original cost by the change in the Engineering News-Record Construction Cost Index

3, Transmission and distribution system replacement cost estimate based on length of system not depreciation schedule

Water Capital Improvement Program

Table 2 shows a summary of the City's Water Capital Improvement Program (CIP). Based on input from City staff, costs are allocated to either a) rehabilitation/replacement or b) upgrade/expansion. Some projects were excluded from fee recovery because they were previously funded or deemed inappropriate for cost recovery via the updated capacity charges. Of the approximately \$8.5 million of capital improvement costs shown on the table about \$7.9 million is allocated system upgrades/expansion. The capacity charges calculated in this report are sized to recover costs for system upgrades/expansion, but do not include cost recovery for rehabilitation/replacements to ensure no double counting of existing facilities and their replacement.

Table 2 –Water Capital Improvement Projects

Project Name	Length or Capacity	Total Cost	Expansion or Existing	% Expansion Related	\$ Expansion Related
Water pipeline replacements (8 & 12-inch)	1,000 - 1,500 LF/yr	\$210,000	Existing & Expansion	50%	\$1,050,000
Hwy 86 Crossing at Barioni Ave. (12-inch)	600 LF	\$560,000	Existing & Expansion	50%	\$280,000
Sandalwood Glen pipeline loop (12-inch)	2,000 LF	\$1,050,000	Existing & Expansion	50%	\$525,000
WTP filter expansion	2.33 MGD	\$2,520,000	Expansion	100%	\$2,520,000
WTP finished water storage tank #2	2.0 MG	\$2,100,000	Expansion	100%	\$2,100,000
WTP filter to waste Improvements		\$490,000	Existing & Expansion	50%	\$245,000
WTP lining raw water storage pond #4	75,000 SF	\$700,000	Expansion	100%	\$700,000
Activated carbon for TTHM reduction	2 MGD	<u>\$900,000</u>	Existing & Expansion	50%	<u>\$450,000</u>
Total		\$8,530,000			\$7,870,000

Water Capacity Charge Calculation

Table 3 calculates an updated water capacity charge based on an *average cost approach*. The charge is designed to recover costs for:

- **Existing Facilities & Assets:** Fee recovery accounts for the cost of water facilities escalated into current to current dollars
- **Capital Improvements:** The fee recovers capital improvement project costs allocated to upgrade and expansion. Project costs allocated to rehabilitation and replacement are excluded from fee recovery to ensure no double counting of an existing asset and its replacement.

Total costs for fee recovery are divided the projected total service capacity of the City's water system through build-out resulting in a capacity charge of \$2,427 per 1" equivalent connection (also referred to as an equivalent dwelling unit (EDU)).

Table 3 – Water Capacity Charge Calculation

Cost per 1" Equivalent	Amount
Expansion Related Capital Costs	\$7,870,000
Existing Asset Value	<u>\$31,016,694</u>
Total Value at Build Out	\$38,886,694
Existing Capacity (CCF)	9,358
Expansion Capacity (CCF)	<u>2,674</u>
Build Out System Capacity (CCF)	12,031
1" Equivalent Avg Day Demand (CCF)	0.45
Peak Day to Average Day Ratio*	<u>1.66</u>
Peak Day Demand per 1" Equivalent (CCF)	0.75
1" Equivalent Capacity in Expansion	16,027
Hybrid Fee Per 1" Equivalent	<u>\$2,427.00</u>

*Peak to average day ratio based 2013-2016 treatment plant production data

4. Sewer Capacity Charge Calculation

Current Sewer Capacity Fees

The current capacity fee per equivalent dwelling unit is \$1,844.82.

Sewer System Fixed Assets

Under the methodology used in this report, updated sewer capacity charges are designed to recover the cost of existing sewer system facilities and assets (in current dollars) as well as the cost of system upgrades and expansion needed to serve the City through buildout.

Table 4 shows a summary of existing sewer system fixed assets along with the cost of each type of asset escalated into current dollars based on the change in the Engineering News-Record (ENR) Construction Cost Index (20-Cities Average Index) from the acquisition date of each asset to January 2017.

Table 4 – Sewer System Fixed Assets

Asset Description	Replacement Cost New Less Depreciation^{1,2}
Land	\$79,683
Infrastructure	\$6,772,913
Building & Improvements	\$976,443
Equipment & Machinery	\$212,860
Vehicles	\$116,965
Equipment	\$255,178
Vehicle	\$40,393
Collection System ³	\$281,856
<u>Wastewater Treatment Plant⁴</u>	<u>\$15,400,000</u>
Total Asset Value	\$24,136,290

1, Source: City of Imperial Equipment and Depreciation Schedule

2, Replacement cost estimated by inflating the original cost by the change in the Engineering News-Record Construction Cost Index

3, Collection system value based on length of system not depreciation schedule

4, Wastewater treatment plant reflects original cost of replacement plant projected to be useful in 2020

Sewer Capital Improvement Program

Table 5 shows a summary of the City's Sewer Capital Improvement Program (CIP). Based on input from City staff, costs are allocated to either a) rehabilitation/replacement or b) upgrade/expansion. The improvement costs related to design and construction of a new wastewater treatment plant was included in the value of existing assets. Of the approximately \$17.1 million of capital improvement costs included on the table approximately \$2.4 million is allocated system upgrades/expansion. The capacity charges calculated in this report are sized to recover costs for system upgrades/expansion, but do not include cost recovery for rehabilitation/replacements to ensure no double counting of existing facilities and their replacement.

Table 5 – Sewer CIP & Cost Allocation

Project Name	Length or Capacity	Total Cost	Expansion or Improvements to Existing	% Expansion Related	\$ Expansion Related
WWTP Upgrade	2.5 MGD	\$15,400,000	Existing	0%	\$0
WWTP outfall undergrounding	2,500 LF	\$504,000	Existing	0%	\$0
Gen-Ox system for Sandalwood Glen Lift Station	1 System	\$700,000	Existing	0%	\$0
Lift Station pump retrofit for de-ragging	2 - 4 pumps/yr	\$60,000	Existing & Expansion	50%	\$300,000
Sewer collection system lining (CIPP)	800 - 1,000 LF/yr	\$350,000	Existing & Expansion	50%	\$1,750,000
Sewer manhole rehabilitation	8 - 10/year	<u>\$70,000</u>	Existing & Expansion	50%	<u>\$350,000</u>
		\$17,084,000			\$2,400,000

Wastewater System Costs for Fee Recovery

The costs for fee recovery account for:

- **Existing Facilities & Assets:** Fee recovery accounts for the cost of wastewater facilities escalated into current to current dollars.
- **Capital Improvements:** The fee recovers capital improvement project costs allocated to upgrade and expansion. Project costs allocated to rehabilitation and replacement are excluded from fee recovery to ensure no double counting of an existing asset and its replacement.

Sewer Capacity Charge Calculations

Table 6 calculates sewer capacity charges. Flow capacity per standard occupancy residential dwelling unit is conservatively estimated based on analysis of City winter water use data, which includes minimal water use for outdoor irrigation and serves as a reasonable estimate of sewer discharge.

Table 6 – Sewer Capacity Charge Calculations

<u>Fee Per SFR Equivalent</u>	<u>Amount</u>
Expansion Related Capital Costs	\$2,400,000
Existing Asset Value	<u>\$24,136,290</u>
Total Value at Build Out	<u>\$26,536,290</u>
Existing Capacity (CCF)	3,208
Expansion Capacity (CCF)	<u>134</u>
Build Out System Capacity (CCF)	3,342
Flow Capacity per SFR (CCF)*	0.36
SFR Capacity After Expansion	9,207
<u>Hybrid Fee Per SFR Equivalent</u>	<u>\$2,883.00</u>

*Flow capacity reflects daily winter (Dec-Feb) water use per residential customer

5. Capacity Charge Application

This section highlights some key issues regarding the application and implementation of the updated capacity charges.

Capacity Charge Ordinance: Purpose of Charge

Pursuant to Government Code, revenues derived the City's capacity charges can only be used for the purpose for which the charges are collected. In order to maximize the City's flexibility for use of capacity charge revenues, BWA recommends that the ordinances/resolutions adopting new charges broadly define the purpose of each capacity charge, such as to recover a proportionate share of costs for existing and future water/wastewater system facilities and assets from new or expanded connections to the water/wastewater systems.

Use of Capacity Charge Revenues

BWA recommends that the City apply all capacity charge revenues to fund capital improvements.

Capacity Charge Credits for Redevelopment

Capacity charges for redevelopment projects and/or expansions should be based on the incremental demand generated from each project. Under this approach, future redevelopment projects would get credited for the capacity purchased by the prior development. For example, a warehouse that is being redeveloped as a mixed-use development would only have to pay capacity charges for the additional demand generated by the new project.

Changes in Property Use

In cases where a property experiences a change in use, such as if an office is converted into a restaurant, the City is entitled to collect capacity charges for any change in water or sewer demand, similar to a redevelopment project. Even in cases in which there is no change in water demand, additional sewer capacity charges may apply for changes in wastewater strength classification.

Limited Term of Application for an Adopted Capacity Charge

Other California agencies have experienced problems with developers purchasing capacity many years in advance of anticipated development in order to lock in lower fees. To avoid these problems, the City should require that capacity charges be paid up front as a condition of development and should allow the charges to be effective for a limited period of time (typically one year) after which the developer or property owner would be responsible for paying any increase to the charges.

Future Fee Adjustments

In future years, BWA recommends that the City update its capacity charges annually by adjusting the charges by the change in the Engineering News-Record Construction Cost Index (20-Cities Average) to account for future construction cost inflation. The fee adjustment should be based on the change in the ENR index from the most recent preceding fee update, which allows for a multi-year adjustment if the City ever opted to temporarily defer any fee adjustments. The City's capacity charge ordinances can allow for automatic annual adjustments.

Additionally, the City should review and consider updating its capacity charges when substantial revisions are made to anticipated capital improvement costs or to substantial changes in projected demand. In general, BWA recommends that capacity charges be independently reviewed and/or updated approximately once every five years.

APPENDIX A

**California Government Code:
Key Sections Pertaining to Water & Sewer Capacity Charges**

California Government Code
Key Sections Pertaining to Water & Wastewater Capacity Charges
Sections 66013, 66016, & 66022

66013

(a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

(b) As used in this section:

(1) "Sewer connection" means the connection of a structure or project to a public sewer system.

(2) "Water connection" means the connection of a structure or project to a public water system, as defined in subdivision (f) of Section 116275 of the Health and Safety Code.

(3) "Capacity charge" means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. A "capacity charge" does not include a commodity charge.

(4) "Local agency" means a local agency as defined in Section 66000.

(5) "Fee" means a fee for the physical facilities necessary to make a water connection or sewer connection, including, but not limited to, meters, meter boxes, and pipelines from the structure or project to a water distribution line or sewer main, and that does not exceed the estimated reasonable cost of labor and materials for installation of those facilities.

(6) "Public facilities" means public facilities as defined in Section 66000.

(c) A local agency receiving payment of a charge as specified in paragraph (3) of subdivision (b) shall deposit it in a separate capital facilities fund with other charges received, and account for the charges in a manner to avoid any commingling with other moneys of the local agency, except for investments, and shall expend those charges solely for the purposes for which the

charges were collected. Any interest income earned from the investment of moneys in the capital facilities fund shall be deposited in that fund.

(d) For a fund established pursuant to subdivision (c), a local agency shall make available to the public, within 180 days after the last day of each fiscal year, the following information for that fiscal year:

(1) A description of the charges deposited in the fund.

(2) The beginning and ending balance of the fund and the interest earned from investment of moneys in the fund.

(3) The amount of charges collected in that fiscal year.

(4) An identification of all of the following:

(A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.

(B) Each public improvement on which charges were expended that was completed during that fiscal year.

(C) Each public improvement that is anticipated to be undertaken in the following fiscal year.

(5) A description of each interfund transfer or loan made from the capital facilities fund. The information provided, in the case of an interfund transfer, shall identify the public improvements on which the transferred moneys are, or will be, expended. The information, in the case of an interfund loan, shall include the date on which the loan will be repaid, and the rate of interest that the fund will receive on the loan.

(e) The information required pursuant to subdivision (d) may be included in the local agency's annual financial report.

(f) The provisions of subdivisions (c) and (d) shall not apply to any of the following:

(1) Moneys received to construct public facilities pursuant to a contract between a local agency and a person or entity, including, but not limited to, a reimbursement agreement pursuant to Section 66003.

(2) Charges that are used to pay existing debt service or which are subject to a contract with a trustee for bondholders that requires a different accounting of the charges, or charges that are used to reimburse the local agency or to reimburse a person or entity who advanced funds under a reimbursement agreement or contract for facilities in existence at the time the charges are collected.

(3) Charges collected on or before December 31, 1998.

(g) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion imposing a fee or capacity charge subject to this section shall be brought pursuant to Section 66022.

(h) Fees and charges subject to this section are not subject to the provisions of Chapter 5 (commencing with Section 66000), but are subject to the provisions of Sections 66016, 66022, and 66023.

(i) The provisions of subdivisions (c) and (d) shall only apply to capacity charges levied pursuant to this section.

(Amended by Stats. 2007, Ch. 94, Sec. 1. Effective January 1, 2008.)

66016

(a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which

the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

(d) This section shall apply only to fees and charges as described in Sections 51287, 56383, 65104, 65456, 65584.1, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

(e) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion levying a fee or service charge subject to this section shall be brought pursuant to Section 66022.

(Amended by Stats. 2006, Ch. 643, Sec. 19. Effective January 1, 2007.)

66022

(a) Any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge, or modifying or amending an existing fee or service charge, adopted by a local agency, as defined in Section 66000, shall be commenced within 120 days of the effective date of the ordinance, resolution, or motion.

If an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge, and the automatic adjustment results in an increase in the amount of a fee or service charge, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 120 days of the effective date of the increase.

(b) Any action by a local agency or interested person under this section shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(c) This section shall apply only to fees, capacity charges, and service charges described in and subject to Sections 66013, 66014, and 66016.

(Amended by Stats. 2006, Ch. 643, Sec. 20. Effective January 1, 2007.)
