

CVSan

Castro Valley Sanitary District



Wastewater Capacity Fee Study – Updated December 2017



BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

Page intentionally left blank

Table of Contents

Executive Summary.....	1
Objectives.....	1
Government Code.....	1
Findings and Recommendations.....	2
Current Fee	2
Recommended Fee	2
Capacity Fee Methodology	2
Single Family Residences and Plumbing Fixture Unit	2
Introduction	3
Wastewater System Background.....	3
Plumbing Fixture Units.....	3
Standard Capacity Fee Methodologies	4
BWA Recommended Method - Average Cost Approach	4
Calculations	5
Recommendations	11

Page intentionally left blank

Executive Summary

Objectives

Bartle Wells Associates has been retained by Castro Valley Sanitary District (CVSan or “the District”) to update the District’s wastewater capacity fee. Wastewater capacity charges are fees charged to new, expanded or replaced connections to the District’s wastewater system which are designed to recover the costs of infrastructures, assets, and wastewater service benefiting new development.

Key objectives of the study include:

- Providing independent review of the District’s current wastewater capacity fees and use of plumbing fixture units in capacity fee policy;
- Identifying and evaluate alternative approaches and fee methodologies;
- Developing updated capacity fees that:
 - Recover the costs of infrastructure, assets, and wastewater service that benefit new development;
 - Are equitable and consistent with industry-standard practices and methodologies;
 - Comply with the government code.

This report presents key findings and recommendations as well as proposed capacity fee alternatives for the District’s consideration. BWA met with District staff on several occasions to discuss findings and alternatives and receive input. The recommendations and alternatives presented in this report incorporate input from District staff and the District’s Board of Directors.

Government Code

Development impact fees are governed by California Government Code Section 66000 et. seq. commonly known as AB1600. The Code refers to water and sewer impact fees as *capacity charges* since their purpose is to recover an equitable share of costs for capacity in infrastructure.

Section 66013 of the Code specifically governs water and sewer capacity charges and states that the fee “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.

The Code also states that "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." The Code does not recommend any specific method for determining an appropriate fee.

Section 66013 also identifies various accounting requirements for capacity fee revenues, notably that such revenues cannot be co-mingled with other District revenues and must be used solely for the purpose for which the fee was imposed. Section 66016 of the Code identifies the procedural requirements for adopting or increasing a water or sewer capacity charge.

The full text of Sections 66013 and 66016 are attached in **Appendix C** to this report.

New development and expansions of existing developments connecting to the CVSan wastewater system are charged a one-time capacity fee at the time of connection expansion. This capacity fee is based on the reasonable cost of capacity per new development. The reasonable cost is derived based on the value of facilities that provide capacity for growth.

Findings and Recommendations

Current Fee

The current capacity fee is \$15,045 for a single-family residence that consists of 21 Plumbing Fixture Units (PFU). PFUs are used in calculating commercial and additional capacity fees, where each PFU is used to determine the new or additional fee. Under existing CVSan policies each PFU is charged at 1/21st the cost of a single-family residence or \$716.45/PFU.

Recommended 2018 Fee

CVSan's capacity fee model has been updated using a facility replacement valuation which calculates a new capacity fee of \$15,537.70 per single-family residence or \$739.89 /PFU using the existing calculation methodology of 21 PFUs per single-family household.

Capacity Fee Methodology

This report calculates new wastewater capacity fees under the approach summarized below. The methodology used for this report, Buy-In Only Approach, recovers costs for existing facilities benefiting growth.

Buy-In Only Approach

Under this approach, the capacity fee is calculated based on the total costs of existing wastewater facilities (in current dollars) divided by the total capacity of the wastewater system. The resulting fee represents the proportional cost of the existing wastewater facilities.

Single Family Residences and Plumbing Fixture Units

BWA reviewed CVSan's policy on PFUs as a component of the capacity fee. BWA recommends that CVSan policy reflect what modern homes currently use in terms of PFUs (21 PFUs per equivalent single-family home when determining future capacity fees). This policy has been incorporated into the current fees.

Introduction

Wastewater System Background

CVSan operates a wastewater system built to collect, transport, treat and dispose of wastewater. The District's system is comprised of approximately:

- 150 miles of sanitary sewer pipe
- 3,106 sewer manholes
- 8 sewage pump stations
- 25% ownership of the CVSan/Oro Loma Sanitary District's Wastewater Treatment Facility
- 10.395% ownership of East Bay Dischargers Authority (EBDA) facilities
- 4 miles of outfall to receiving waters in the San Francisco Bay
- Administrative Headquarters Building

Wastewater is collected from the District's customers, transported to the Wastewater Treatment Facility and subsequently discharged into the San Francisco Bay via the EBDA outfall. CVSan serves roughly 18,000 residential and commercial customers. Nominal future growth is expected in the service area.

Plumbing Fixture Units

CVSan currently uses 21 Plumbing Fixture Units, as defined by the California plumbing code, to equate capacity charges to a single-family residence. Each single-family residence is equal to 21 PFUs in the District's existing policy and as such the current fee per PFU is equal to the single-family capacity fee divided by 21, or \$716.45/PFU.

As shown in Table 1 below, 21 PFUs is a representation of what constitutes a typical two-bath single family residence. The full calculation model can be found in **Appendix B**. Table 1 illustrates how the PFUs are calculated in a typical two-bath home.

Table 1

Castro Valley SD

Calculation of Typical Single Family Residence Plumbing Fixture Unit Value

Fixture Type	Quantity	PFU (1)	Total PFU
Bathtub(with or without shower)	1	2	2
Clothes Washer	1	3	3
Dishwasher	1	2	2
Lavatory	2	1	2
Shower (single)	1	2	2
Sink	1	2	2
Toilet (1.6 gal per flush)	2	4	8
PFU's in a Typical Single Family Residence			21

Source: Castro Valley PFU Calculator spreadsheet

Standard Capacity Fee Methodologies

BWA reviewed the legal framework for establishing capacity fees and various methodologies for calculating the fees. The capacity fee methodologies are summarized below.

Alternative A: Average Cost Approach

Under this approach, the capacity fee is calculated based on the total costs of existing and future wastewater facilities benefiting new development (in current dollars), divided by the total anticipated capacity of the wastewater system. The resulting fee represents the average cost of water facilities benefiting growth.

Alternative B: Buy-In + Expansion Cost Approach

Under this approach, the capacity fee includes two components: a) a buy-in component to recover an equitable share of costs for existing facilities available to serve new development (in current dollars), plus b) an expansion component to recover the cost of capacity in future facilities needed to serve projected new development.

Alternative C: Buy-In Only Approach - Recommended

Under this approach, the fee is based on the cost of existing facilities and assets (in current dollars) divided by the capacity of the existing wastewater system. The buy-in approach is more commonly used by agencies that are mostly built out with wastewater systems that require minimal future facility improvements.

Alternative D: Expansion or Marginal Cost Approach

Under this approach, the fee is based on the cost of future expansion-related improvements (in current dollars) divided by the increase in system capacity associated with those improvements. Fees calculated under this approach represent the marginal cost of adding a unit of expansion. This approach excludes cost recovery for existing facilities and assets that provide benefit to new development.

BWA Recommended Method – Buy-In Only Approach

BWA recommends that the District charge a capacity fee for buy-in to the collection system based on the Buy-In Only Approach as described above. The District's collection system has adequate capacity to meet future growth and does not need to expand capacity. New customers should pay an equitable fee to use the existing collection system facilities.

Calculations

Value of Sewer Facilities

The determination of reasonable cost begins by determining the value of the facilities. The sewer system provides collection, transmission, treatment, and disposal of wastewater.

The sewer system is valued by escalating the original construction costs to current year costs using the Engineering News Record (ENR) 20-City Construction Cost Index (CCI) as of June 2017. The inventory of facilities was compiled by the District and is current as of June 30, 2017. A copy of this inventory is shown in **Appendix A** and includes the ENR escalation calculations. This methodology is based on the estimated replacement value of the District's assets used in providing the wastewater service. Some key asset classes include:

- Subsurface Collection Lines
- Headquarters buildings
- Treatment Plant
- Vehicles
- Land
- CVSan's portion of the East Bay Dischargers (EBDA) operation

Table 2
Castro Valley SD
Summary of Wastewater System Assets FY2016

Asset Category	Acquisition Value	Escalated or replacement value	Upgrades	Total Value
Subsurface Collection Lines ¹	\$17,900,081	\$323,511,697	\$1,855,000	\$325,366,697
Sewage Collection Facilities	\$9,073,182	\$11,250,918		\$11,250,918
CVSan/OLSD Plant	\$22,926,139	\$43,246,416		\$43,246,416
Gen. Plant	\$2,500	\$3,122		\$3,122
HQ Building	\$1,526,509	\$2,645,091		\$2,645,091
Office Furniture	\$111,337	\$183,956		\$183,956
Office Equipment	\$353,205	\$545,115		\$545,115
Communications Equip	\$21,240	\$39,672		\$39,672
Vehicles	\$1,086,608	\$1,403,317		\$1,403,317
Maintenance Equipment	\$396,598	\$675,341		\$675,341
Computer Equipment	\$220,896	\$237,393		\$237,393
MP Office Enhancement	\$23,771	\$25,687		\$25,687
Boardroom Enhancement	\$15,949	\$18,339		\$18,339
Admin Phone System	\$15,384	\$15,926		\$15,926
Msc. Admin Equipment	\$77,534	\$80,953		\$80,953
Solar Project	\$2,700	\$3,069		\$3,069
CCTV	\$199,680	\$223,858		\$223,858
Center/CVB Property Improvement	\$37,055	\$37,813		\$37,813
Total Assets	\$53,990,368	\$384,147,682	\$1,855,000	\$386,002,682
Land	\$1,513,719	\$1,652,186		\$1,652,186
Total CVSan System	\$55,504,087	\$385,799,868	\$1,855,000	\$387,654,868
EBDA Discharge Line ²	\$6,122,417	\$25,437,977		\$25,437,977
Subtotal wastewater system value	\$61,626,504	\$411,237,845	\$1,855,000	\$413,092,845
less capacity charges and contributed capital				
Net Waste Water System	\$61,626,504	\$411,237,845	\$1,855,000	\$413,092,845

Source: CVSan 2017 Asset List

1. Replacement value calculated by CVSan.

2. Based on June 30, 2016 EBDA Financial Statement, page 28, total cost of capital Assets. (CVSan share = 10.395% of EBDA)

Escalating facility values by the ENR CCI gives the Castro Valley Sanitary District a replacement value of \$413,092,845. This is nearly 7 times the historic cost of the local wastewater system. Once asset values have been escalated to their current replacement estimates they must be allocated to the three main components of wastewater treatment: flow, Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS). Table 3 shows that CVSan’s facilities are allocated at approximately 95.74% of asset values to flow and 2.13% for both BOD and TSS.

Table 3
Castro Valley SD
Summary of Wastewater Sewer System Allocation

Asset Category	Allocation Percentages			System Value	Allocation of Dollars		
	Flow	BOD	TSS		Flow	BOD	TSS
Subsurface Collection Lines	100%			\$325,366,696.87	\$325,366,696.87	\$0.00	\$0.00
Sewage Collection Facilities	100%			\$11,250,918.11	\$11,250,918.11	\$0.00	\$0.00
CVSan/OLSD Plant	60%	20%	20%	\$43,246,415.90	\$25,947,849.54	\$8,649,283.18	\$8,649,283.18
Gen. Plant	95%	2%	2%	\$3,122.23	\$2,978.61	\$71.81	\$71.81
HQ Building	95%	2%	2%	\$2,645,091.11	\$2,523,416.92	\$60,837.10	\$60,837.10
Office Furniture	95%	2%	2%	\$183,956.22	\$175,494.23	\$4,230.99	\$4,230.99
Office Equipment	95%	2%	2%	\$545,114.53	\$520,039.26	\$12,537.63	\$12,537.63
Communications Equip	95%	2%	2%	\$39,671.56	\$37,846.67	\$912.45	\$912.45
Vehicles	95%	2%	2%	\$1,403,316.85	\$1,338,764.28	\$32,276.29	\$32,276.29
Maintenance Equipment	95%	2%	2%	\$675,340.82	\$644,275.14	\$15,532.84	\$15,532.84
Computer Equipment	95%	2%	2%	\$237,393.15	\$226,473.07	\$5,460.04	\$5,460.04
MP Office Enhancement	95%	2%	2%	\$25,687.50	\$24,505.87	\$590.81	\$590.81
Boardroom Enhancement	95%	2%	2%	\$18,338.89	\$17,495.30	\$421.79	\$421.79
Admin Phone System	95%	2%	2%	\$15,925.98	\$15,193.38	\$366.30	\$366.30
Msc. Admin Equipment	95%	2%	2%	\$80,952.69	\$77,228.87	\$1,861.91	\$1,861.91
Solar Project	95%	2%	2%	\$3,068.67	\$2,927.51	\$70.58	\$70.58
CCTV	95%	2%	2%	\$223,858.47	\$213,560.99	\$5,148.74	\$5,148.74
Center/CVB Property Improvement	95%	2%	2%	\$37,812.92	\$36,073.53	\$869.70	\$869.70
Total Assets				\$386,002,682.47	\$368,421,738.13	\$8,790,472.17	\$8,790,472.17
Land	98.80%	0.60%	0.60%	\$1,652,185.85	\$1,632,359.62	\$9,913.12	\$9,913.12
Total CVSan System	95.46%	2.27%	2.27%	\$387,654,868.32	\$370,054,097.75	\$8,800,385.28	\$8,800,385.28
EBDA Discharge Line	100%			\$25,437,977.00	\$25,437,977.00		
Total wastewater system	95.74%	2.13%	2.13%	\$413,092,845.32	\$395,492,074.75	\$8,800,385.28	\$8,800,385.28

Using the above allocation percentages, BWA calculates that \$395,492,075 of assets are used for flow and \$8,880,385 is used for both BOD and TSS.

Table 4
 Castro Valley SD
 Summary of Wastewater Sewer System Loading

	FY17
Net Waste Water System Valuation	\$413,092,845
Allocation Percentage	
Flow (avg. dry weather)	95.74%
BOD	2.13%
TSS	2.13%
Allocation Dollars	
Flow	\$395,492,075
BOD	\$8,800,385
TSS	\$8,800,385

The capacity of the wastewater system is determined by average dry weather flow, biochemical oxygen demand (BOD), and total suspended solids (TSS) of the system. Table 5 illustrates the CVSan wastewater system capacities in terms of Flow, BOD and TSS.

Table 5
 Castro Valley SD
 Summary of Wastewater Sewer System Capacity

Wastewater System Capacity		FY17
Flow (avg. dry weather)	<i>gpd</i>	5,000,000
BOD	<i>lbs/day</i>	10,425
TSS	<i>lbs/day</i>	12,510

<i>Flow</i>	5 million gallons per day (mgd)
<i>BOD</i>	250 Milligrams per liter (mg/l)
<i>TSS</i>	300 Milligrams per liter (mg/l)

Source: 2013 CVSan Capacity Model

Table 6 shows the loadings associated with a single-family residence on the Castro Valley Sanitary District system. Loadings are converted into million gallons per day and BOD and TSS pounds per day.

Table 6
 Castro Valley SD
 Single Family Loadings and Flow

	Flow and Concentrations	Flow and Loadings
Flow	189 gpd	0.000189 mgd
BOD	240 mg/l	.38 lb/day
TSS	240 mg/l	.38 lb/day

Source: 2013 CVSan Capacity Model

Table 7 breaks down the asset allocations from Table 4 into a unit cost for Flow, BOD and TSS based on system capacities in Table 5. The unit costs of capacity are calculated to be: Flow at \$79.10 per gallon per day (gpd), BOD at \$844.16 per pound per day and TSS at \$703.47 per pound per day.

Table 7		
Castro Valley SD		
Unit Costs		
		FY17
Net Wastewater System Valuation		
Flow		\$395,492,074.75
BOD		\$8,800,385.28
TSS		\$8,800,385.28
Total		\$413,092,845.32
Wastewater System Capacity		
Flow	<i>gpd</i>	5,000,000
BOD	<i>lbs/day</i>	10,425
TSS	<i>lbs/day</i>	12,510
Unit Costs of Capacity		
Flow	<i>\$/gpd</i>	\$79.10
BOD	<i>\$/lbs/day</i>	\$844.16
TSS	<i>\$/lbs/day</i>	\$703.47

Table 8 calculates the appropriate capacity charge for a single-family residence using the unit costs established in Table 7 and the sewer loadings from Table 6. Using the buy-in only approach, the capacity fee for a single-family residence is calculated at \$15,537.70 per equivalent single-family dwelling.

Table 8
 Castro Valley SD
 Capacity Charge Calculation

			FY17
Unit Costs of Capacity			
Flow	<i>\$/gpd</i>		\$79.10
BOD	<i>\$/lbs/day</i>		\$844.16
TSS	<i>\$/lbs/day</i>		\$703.47
Single Family Residence Unit Loadings			
Flow	<i>gpd</i>		189
BOD	<i>lb/day</i>		0.38
TSS	<i>lb/day</i>		0.38
Single Family Residence Unit Capacity Charge			
Flow			\$14,949.60
BOD			\$320.78
TSS			\$267.32
Total			\$15,537.70

Castro Valley Sanitary District currently charges their capacity fees on a PFU basis for non-residential customers and expansion projects. BWA recommends that CVSan adopt PFU capacity fees based on 21 PFUs per single-family home. Table 9 shows a detailed schedule of fees based on number of PFUs in the proposed development. Each PFU is proposed to be charged a capacity fee of \$739.89.

Table 9	
Castro Valley SD	
Plumbing Fixture Charge	
	FY17
Single Family Residence Unit	
Capacity charge	\$15,537.70
Plumbing fixture units	21
Charge per plumbing unit	\$739.89
Partial Dwelling Unit	
Charge per plumbing unit	\$739.89
Plumbing fixture units	
1	\$739.89
2	\$1,479.78
3	\$2,219.67
4	\$2,959.56
5	\$3,699.45
6	\$4,439.34
7	\$5,179.23
8	\$5,919.12
9	\$6,659.01
10	\$7,398.90
11	\$8,138.80
12	\$8,878.69
13	\$9,618.58
14	\$10,358.47
15	\$11,098.36
16	\$11,838.25
17	\$12,578.14
18	\$13,318.03
19	\$14,057.92
20	\$14,797.81
21	\$15,537.70

Figure 1
 Castro Valley SD
 Capacity Fee Survey

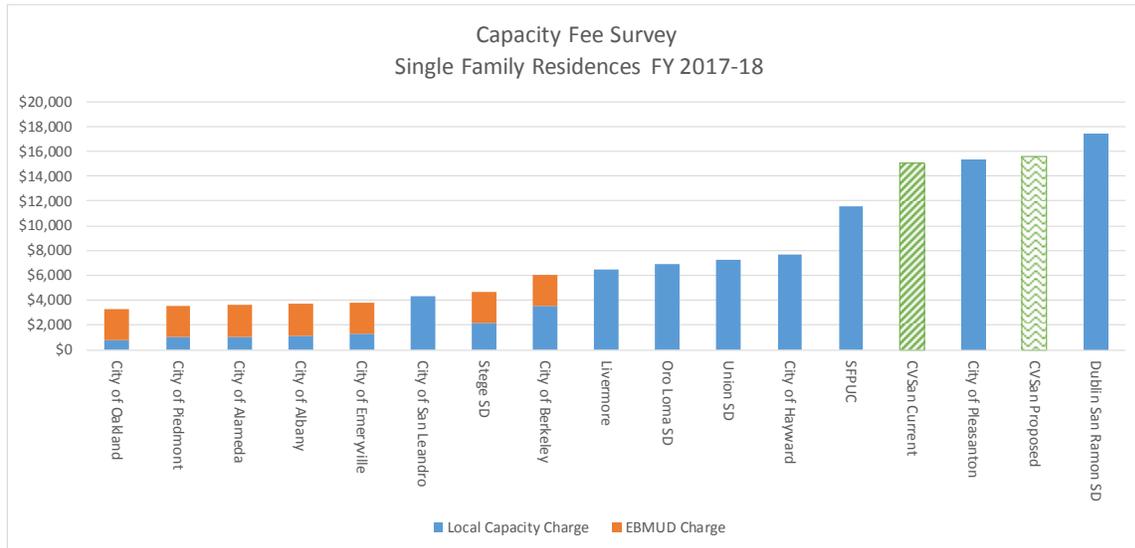


Figure 1 illustrates a single-family capacity fee survey of surrounding wastewater agencies.

Recommendations

BWA recommends that CVSan adopt the above recommended capacity fees with a basis of 21 PFUs to reflect modern standards within homes. BWA has calculated an updated capacity fee of \$15,537.70 per single family residence and a per PFU fee of \$739.89 for commercial and expansion projects.

Appendix A - CVSan 2016 Facilities Asset List with ENR Escalation

(insert PDF)

Appendix B – CVSan Current Plumbing Fixture Unit Calculation Worksheet



Castro Valley Sanitary District
 21040 Marshall Street, Castro Valley, CA 94546
 Telephone (510) 537-0757
 Fax (510) 537-1312

Facility

Location:

Calculation of Fees based on Fixture Unit value as prescribed by 2010 California Plumbing Code

Fixture Type	Quantity	DFU (Public)	Total DFU
Bathtub (with/without shower)		2	0
Bidet		0	0
Clothes Washer		3	0
Dental Unit/Cuspidor		1	0
Dishwasher		2	0
Drinking Fountain/Watercooler (each head)		0.5	0
Floor Drain (emergency)		0	0
Floor Drain		2	0
Food-waste-grinder (commercial)		3	0
Lavatory		1	0
Lavatory (sets of 2 or 3)		2	0
Shower (single-head trap)		2	0
Shower (multi-head, each additional)		1	0
Sink (bar)		2	0
Sink (clinical)		6	0
Sink (commercial with food waste)		3	0
Sink (kitchen, domestic)		2	0
Sink (laundry)		2	0
Sink (service or mop basin)		3	0
Sink (service, flushing rim)		6	0
Sink (special purpose with 1.5" trap)		3	0
Sink (special purpose with 2" trap)		4	0
Sink (special purpose with 3" trap)		6	0
Sink (wash, each set of faucets)		2	0
Receptor (indirect waste, 1.5")		3	0
Receptor (indirect waste, 2")		4	0
Receptor (indirect waste, 3")		6	0
Urinal		2	0
Washfountain (1.5")		2	0
Washfountain (2")		3	0
Water Closet (>1.6 GPF flush/gravity tank)		6	0
Water Closet (>1.6 GPF flush valve)		6	0
Water Closet (1.6 GPF flush/gravity tank)		4	0
Water Closet (1.6 GPF flush valve)		4	0
Total	0	0	0

Total Cost (Est.)

\$0.00

Appendix C - 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 inter-fund transfer or loan made from the capital facilities fund. The information provided, in the case of an inter-fund transfer, shall identify the public improvements on which the transferred moneys are, or will be, expended. The information, in the case of an inter-fund 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.)