

Attachment No. 41

**Hildebrand, Capacity Charge
Study, September 7, 2022**



Capacity Charge Study

Final Report

September 7 , 2022



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APPENDIX A – GOVERNMENT CODE SECTIONS 66013, 66016, 66022, AND 66023

1. INTRODUCTION

The East Palo Alto Sanitary District (District) contracted with Hildebrand Consulting, LLC to conduct a Capital Charge Study (Study). The overall purpose of the Study is to review the **District's** existing Capacity Charges which apply to new sewer connections within the **District's** service area and update those charges as appropriate. Specifically, the update to the Capacity Charges are intended to incorporate the costs to expand the sewer **system's** capacity, as described in a 2021 amendment to the 2015 Sewer Master Plan.

Capacity Charges are the one-time charges paid by new development for capacity in the sewer system, including collection and treatment facilities. This report summarizes the analysis and proposed updates to the **District's** existing Capacity Charge, including the legal requirements and the **Study's** methodology for calculating the Capacity Charges.

In addition to updating **the District's Capacity Charge**, **this Study** recommend how to address circumstances when the cost of a pipeline expansion project to serve a proposed development far exceeds the Capacity Charge revenue that the new development would generate.

2. ACRONYMS

The acronyms used in this Study include:

| | |
|---------|--|
| ADU | accessory dwelling unit |
| BOD | biochemical oxygen demand |
| CCI | Engineering News Record's 20-cities Construction Cost Index |
| EDU | equivalent dwelling unit |
| ENR | Engineering News Record |
| EPASD | East Palo Alto Sanitary District |
| gpd | gallons per day |
| MGD | million gallons per day |
| PARWQCP | Palo Alto Regional Water Quality Control Plant |
| RCNLD | replacement cost new less depreciation |
| RWQCB | Regional Water Quality Control Board |
| SWRCB | State Water Resources Control Board |
| SS | total suspended solids |

3. DISTRICT BACKGROUND

The EPASD is an independent, community-owned and operated public agency that provides wastewater collection and treatment service to East Palo Alto and adjacent areas of Menlo Park and San Mateo County. EPASD was established in 1939 and is governed by a 5-member board of directors elected at large from the community.

The District provides wastewater collection service to portions of the communities of Menlo Park and East Palo Alto, located in San Mateo County in the San Francisco Bay Area. The **District's** service area is primarily residential with several commercial and industrial parcels. The **District's** service area encompasses nearly 1,230 acres, or 1.92 square miles. The **District's** collection system is a gravity system with over 30 miles of sanitary sewer pipelines and is operated and maintained in accordance with the requirements of the State Water Resources Control Board (SWRCB), as administered through the Statewide Sanitary Sewer Overflow Waste Discharge Requirements and Regional Water Quality Control Board (RWQCB) Sewer System Management Plan guidelines.

The **District's** sewage is conveyed to the Palo Alto Regional Water Quality Control Plant (PARWQCP) for treatment and disposal. The PARWQCP is a regional wastewater treatment plant owned and operated by the City of Palo Alto on behalf of a number of regional agencies. EPASD currently owns 7.34 percent of the capacity in the PARWQCP.

4. PROJECT BACKGROUND

The **District's** last Capacity Charge study was conducted in 2018 and was, in part, based on the **District's** 2015 Sewer Master Plan, which was based on the City of East Palo Alto's 1999 General Plan and Zoning Ordinance. Since that time, the **District's** Master Plan has been amended¹ in order to capture changes in land use identified by the City of East Palo Alto's 2035 General Plan. Significantly, the 2035 General Plan reflects to the fact that the City has recently lifted a long-standing moratorium on growth.

The **District's** Amended 2015 Sewer Master Plan identifies approximately \$35 million of pipeline up-sizings needed to accommodate flows from potential new development based on the 2035 General Plan & rezoning. The growth described by the 2035 General Plan would also require the District to purchase additional capacity in the PARWQCP (capacity of 1 million gallons per day (MGD) at a cost of \$5 million). Most, if not all, of these expansion costs are expected to be debt financed by the District.

¹ Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update, dated April 28, 2021

5. CAPACITY CHARGE AUTHORITY

California state law gives the District broad authority to charge for capital facilities. The limitations of that authority are encompassed by the requirement that charges on new development bear a reasonable relationship to the needs created by, and the benefits accruing to that development. California courts use that reasonableness standard to evaluate the constitutionality of exactions on new development, including Capacity Charges.

Government Code Section 66013 (see Appendix A) contains specific requirements related to the imposition of capacity charges. In general, Capacity Charges must not exceed the estimated reasonable cost of providing service.

6. INTRODUCTION TO CAPACITY CHARGE METHODOLOGIES

There are various methods that can be used to calculate Capacity Charges. Each method has varying advantages and disadvantages, as well as applicability in a given situation. Within all of the available methodologies there are two primary approaches. Other methodologies are usually some variation or combination of these two methods. The two primary methods are described below to illustrate the different perspectives that can be used to determine appropriate fees.

6.1. SYSTEM BUY-IN METHODOLOGY

Many utility facilities are oversized when initially constructed in anticipation of future development, particularly infrastructure such as pumping facilities and wastewater treatment facilities. The system Buy-In method is based on the past investments in the capital facilities made by current customers. The 'Buy-In' concept means that existing system users, through Capacity Charges and user rates, have financed a valuable public capital facility. The Capacity Charge assessed to new customers is designed to recognize those previous investments into the system and equitably charge developers for "joining" the system. The Buy-In fee is calculated by establishing the **system's** current fixed asset value (accounting for inflation and depreciation), adding applicable assets (such as cash reserves designated for capital spending), and deducting relevant liabilities (principal owed on long-term debt). This value is then divided by the **system's capacity**, which yields the unit costs that are the basis for the Capacity Charges. By calculating the Capacity Charges in this manner, new development buys into the existing capital facilities on par with existing development. The cost of future repair and replacement of the existing assets are then shared equally by all customers going forward (through user rates).

Capacity Charges based on the Buy-In method are a reimbursement for past capital costs. Therefore, the use (as defined in the Government Code) of the fee is to reimburse the District. Once reimbursed, the District is able to spend fee revenue as it desires (normally on capital projects).

The system Buy-In method is best applied in areas where foreseeable growth can be served by existing infrastructure.

6.2. INCREMENTAL METHODOLOGY

The Incremental cost methodology is also a common approach for Capacity Charges, particularly for utilities that are at, or near, capacity and are expecting more growth. The approach is based on the cost of new or planned capital facilities. The cost of expanding the existing facilities is allocated to the new development based on their need for capacity. The premise is that the existing system is being used at full capacity by existing customers and that any new development will necessitate expansion of the system. As such, new customers pay for the Incremental costs for expanding the system. The cost of adding new capacity is usually derived from the **District's** capital improvement plan or master plan and may include the cost of financing the project (interest expenses).

Capacity Charges based on the Incremental cost methodology are subject to statutory accounting requirements because fee revenue must be accounted for until the specific capital improvements are constructed. For reference, Appendix A includes statutory requirements for accounting for Capacity Charges.

7. EXISTING CHARGES

Based on the findings of the 2018 Capacity Charge Study, the District currently charges \$6,060 per equivalent dwelling unit (EDU), which assumes a flow of 240 gallons per day (gpd), and wastewater strength of 200 mg/L of biochemical oxygen demand (BOD) and 200 mg/L of total suspended solids (SS). BOD and SS are two industry-standard measures of wastewater strength used in rate and fee setting. Charging new connections based on sewer strength ensures that new customers with wastewater that contains higher-strength concentrations of BOD and SS will pay for their proportionate share of facility costs related to wastewater treatment.

The existing Capacity Charges were calculated using the Buy-In approach since the 2018 Capacity Charge study relied on the original 2015 Master Plan, which was informed by the City of East Palo Alto's 1999 General Plan. The more recent Addendum to the 2015 Master Plan incorporates the significant capital expansion identified in the 2035 General Plan.

8. PROPOSED STUDY METHODOLOGY

This Study proposes to use the Incremental methodology since there remains a very limited amount of available capacity and it is reasonable for the District to reserve that remaining capacity as a safety factor against sanitation sewer overflow (SSO) events. This is combined with the fact that the 2035 General Plan and the 2015 Sewer Master Plan describe the need for significant and imminent capacity expansion. As previously described, the Incremental methodology consists of dividing the estimated cost of system expansion projects by the amount of new capacity that those projects will create. In this case, there are two components: the collection system expansion and the purchase of more capacity at the wastewater treatment plant (PARWQCP)

Capacity Charge Equation:

$$\frac{\text{Cost of Collection System Expansion}}{\text{Increase in Collection System Capacity}} + \frac{\text{Cost of PARWQCP Capacity}}{\text{Amount of PARWQCP Capacity}}$$

The remainder of this report describes the data and methodology used to calculate the proposed Capacity Charges.

9. SOURCE DATA

The following data was used for calculating the proposed Capacity Charges:

- Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update, dated April 28, 2021
- Wastewater Capacity Charge Update, Bartle Wells Associates, December 2018
- Staff communications (email)

10. CAPACITY CHARGE CALCULATION

The Capacity Charge calculation is divided into a collection system component and a treatment plant component.

10.1. COLLECTION SYSTEM COMPONENT

For purposes of this Study, the assumed cost of expanding the collection system is based on the cost estimates provided by the Amended 2015 Sewer Master Plan, which describes an expansion of 1.08 MGD in collection system capacity (see page 5). As shown in Table 1 below, in addition to the direct costs of expanding the collection system, this Study includes the estimated future cost of debt financing the expansion projects since the District does not intend to use ratepayer-funded reserves to finance the projects.

In light of the proposed District policy that is discussed in Section 11, it is necessary to further divide the collection system costs into trunk costs (the trunk line that feeds the PARWQCP and serve all customers) and local collection system costs (the collection pipes that serve more specific areas). This is important because (as discussed in Section 11), some projects will be required to directly finance the cost of expanding local collection pipelines, which will be done in lieu of paying “**Local Collection**” Capacity Charges. Those customers, however, will still be required to pay “**Trunk**” Capacity Charges as well as the Treatment Plant Capacity Charge.

It should be noted that this Study acknowledges that the expansion-related projects for the local collection system will simultaneously rehabilitate or improve existing pipelines (for example, a **4” line** with 40 years of remaining expected useful life **is replaced with a new 6” line** that has an expected useful life of 80 years). Significantly, the District has some discretion in how to allocate costs between expansion versus rehabilitation. This is because the vast amount of the cost of replacing a

pipe has nothing to do with the pipe itself, but rather the cost of opening the street, excavating the trench, filling the trench, and patching the street. The only real cost difference between a pipe expansion project and a pipe replacement project is the marginal cost between a smaller diameter pipe and a larger diameter pipe, which is a small fraction of the total project cost. As such, the majority of the costs typically allocated to the **project “driver”** (in other words, is (1) a healthy pipe being replaced early because a larger pipe is needed for development or (2) is a failing pipe being upsized in anticipation of growth that may happen in the future). In this case, most of the pipelines that are proposed to be upsized have a considerable amount of expected useful life remaining (per District staff), as such the *project driver is expansion*, not rehabilitation. As such, it is reasonable that the District recover 70 percent of the project costs from developers, while recovering 30 percent from rate payers in recognition of the rehabilitation benefits.

The two tables below provide the calculation of the unit costs for the Trunk Capacity Charge and the Local Collection Capacity Charge, based on the estimated costs of the projects and the amount of new capacity that will be created.

Table 1 - Trunk Incremental Cost Per Unit of Capacity

| | |
|--|--------------|
| Estimated cost of Trunk expansion ¹ : | \$13,000,000 |
| Projected interest expense ² : | \$12,370,060 |
| Proposed additional Trunk System capacity ³ : | 1,080,000 |
| Cost recovery percent for fee calculation ⁴ : | 100% |
| Trunk Unit cost (\$/gpd): | \$23.49 |

¹ Source: Amended 2015 Sewer Master Plan and email from District staff (Akin Okupe, July 1, 2022)

² Assumes 5 percent interest and 30 year repayment period

³ Source: Amended 2015 Sewer Master Plan

⁴ The Trunk expansion consists of adding a second trunk, which is entirely to serve growth.

Table 2 - Local Collection Incremental Cost Per Unit of Capacity

| | |
|---|--------------|
| Estimated cost of Local Collection System expansion ¹ : | \$22,156,000 |
| Projected interest expense ² : | \$21,082,388 |
| Proposed additional Local Collection System capacity ³ : | 1,080,000 |
| Cost recovery percent for fee calculation ⁴ : | 70% |
| Local Collection Unit cost (\$/gpd): | \$28.02 |

¹ Source: Amended 2015 Sewer Master Plan (total cost less Trunk cost)

² Assumes 5 percent interest and 30 year repayment period

³ Source: Amended 2015 Sewer Master Plan

⁴ District policy based on estimated rehabilitation value of replacing existing pipeline

10.2. TREATMENT PLANT COMPONENT

The proposed purchase of new PARWQCP capacity is 1.0 MGD, which is expected to cost \$5 million (see Table 3). As with the collection system expansion costs, this Study includes the cost associated with debt financing these costs.

The treatment plant costs are allocated to both wastewater flows as well as to wastewater strength, as measured by BOD and SS. Consistent with the 2018 Capacity Charge study, the treatment costs are allocated 34 percent to flow, 33 percent to BOD, and 33 percent to SS. Also consistent with the 2018 Capacity Charge study, it is assumed that the average strength of flow at the PACWQCP is 250 mg/L of BOD and 225 mg/L of SS. Table 3 summarizes the resultant unit costs for flow, BOD and SS.

Table 3 - Treatment Plant - Incremental Cost Per Unit of Capacity

| Cost of Capacity Rights in the PARWQCP: \$5,000,000 Interest Expense: \$4,758,000 Cost recovery percent for fee calculation ² : 100% | | | | |
|---|---------------------------|--------------------------|--------------------------|--------------|
| Cost Allocation | <u>Flow</u> | <u>BOD</u> | <u>SS</u> | <u>Total</u> |
| Cost Allocation (%): | 34.0% | 33.0% | 33.0% | 100% |
| Cost Allocation (\$): | \$3,317,720 | \$3,220,140 | \$3,220,140 | \$9,758,000 |
| Wastewater Strength at PARWQCP ² : | | 250 mg/L | 225 mg/L | |
| EPASD Buildout Capacity at PARWQCP: | 1,000,000 gpd | 761,518 lbs/year | 685,367 lbs/year | |
| Unit Cost: | \$3.318 per gpd | \$4.229 per lb | \$4.698 per lb | |

¹ Source: 2018 Capacity Charge Study and based on historical influent wastewater strength at the wastewater treatment plant.

² The purchase of additional capacity at the treatment plant is entirely to serve new growth.

10.3. CAPACITY CHARGES FOR RESIDENTIAL ACCOUNTS

The total Capacity Charge is calculated by adding the Trunk Capacity Charge to the Local Collection Capacity Charge to the Treatment Plant component, as shown in Table 4. The total Capacity Charge is assessed to each residential dwelling unit. The assumed flow and strength of the wastewater for residential accounts is based on the assumptions from the 2018 Capacity Charge study, which relied **on the District's engineering design estimates and standards as published by the State Water Resources Control Board (SWRCB).**

Table 4 - Proposed Capacity Charge per EDU

| | Flow | BOD | SS |
|---|---|--------------------------------------|--------------------------------------|
| Equivalent Dwelling Unit (EDU) Loadings ¹ | 240 gpd | 200 mg/l 0.4006 lbs/day | 200 mg/l 0.4006 lbs/day |
| Cost Recovery Components | | | |
| Trunk Expansion: | \$23.49 | - | - |
| Local Collection System Expansion: | \$28.02 | - | - |
| PARWQCP Buy-In Cost: | <u>\$3.318</u> | <u>\$4.229</u> | <u>\$4.698</u> |
| Subtotal: | \$54.83 | \$4.229 | \$4.698 |
| | per gpd | per lb | per lb |
| Capacity Charge per EDU | | | |
| Trunk Cost Recovery: | \$5,637.79 | - | - |
| Local Collection Cost Recovery: | \$6,725.97 | | |
| Treatment Plant Cost Recovery: | <u>\$796.25</u> | <u>\$618.69</u> | <u>\$687.43</u> |
| Total Cost Recovery: | \$13,160.02 | \$618.69 | \$687.43 |
| Percent of Total: | 89.4% | 5.0% | 5.6% |
| | Trunk Capacity Charge (per EDU): | | \$5,637 |
| | Local Collection Capacity Charge (per EDU): | | \$6,725 |
| | Treatment Plant Capacity Charge (per EDU): | | <u>\$2,102</u> |
| | Total Capacity Charge (per EDU): | | \$14,464 |

¹ Based on 2018 Capacity Charge study, which used current engineering design estimates and SWRCB standards

Per California state law, the District is not authorized to assess Capacity Charges on all accessory dwelling units (ADU). This area of the law currently in flux; therefore, the District should consult with legal counsel regarding the most current laws. For those ADUs that are eligible to be charged a Capacity Charge, the fee will be \$964.00 per plumbing fixture (based on the District's estimate that an average single-family home has 15 plumbing fixtures).

10.4. CAPACITY CHARGES FOR NON-RESIDENTIAL ACCOUNTS

Capacity Charges are assessed to non-residential accounts based on the number of EDUs assigned to the connection, which are derived based on the estimated wastewater flow and strength loadings of each connection according to the formula shown in Figure 1. The fractions shown in Figure 1 (which effectively "weight" the relative importance of flow vs. BOD vs. SS) are taken from the percentages shown in Table 4.

Figure 1 - Calculation of Non-Residential EDUs

$$\text{Number of EDUs} = 0.894 \times \text{Flow} / 240 \text{ gpd} + 0.05 \times \text{BOD} / 200 \text{ mg/l} + 0.056 \times \text{SS} / 200 \text{ mg/l}$$

11. RECOMMENDED POLICY FOR DEVELOPER FINANCING

When building pipeline expansion projects to serve new development (“**Pipeline Project**”), it is the **District’s assumption that either (a) the proposed** development is large enough to generate enough Capacity Charge revenue to justify the Pipeline Project or (b) the Pipeline Project serves an area where a material amount of additional subsequent development (and hence Capacity Charge revenue) is imminent. In some cases, however, relatively small developments may require Pipeline Projects whose costs are disproportionate to the amount Capacity Charge revenue that are expected to be generated. This would occur if the original development were relatively small and future additional development in the area is uncertain. For purposes of this Report, these types of proposed development **projects are referred to as “Under Scaled” projects. While Capacity Charges are** typically adequate to pay for the cost of expansion, Under Scaled projects are not large enough to justify the costs of the Pipeline Project.

Under Scaled projects put the District (i.e., existing ratepayers) in the position of taking a significant financial risk for the benefit of a limited number of new customers. While the District should work towards meeting the future wastewater service needs of the growing community (in part, as described by the **City of Palo Alto’s General Plan**), the District may prioritize its right to protect its existing rate payers from subsidizing the cost of development. In order to both (1) financially protect existing rate payers and (2) give developers a means by which to proceed with Under Scaled projects, it is proposed that the District adopt a policy whereby the developers of Under Scaled projects are required to finance a significant portion of the Pipeline Project (a cost that would be, by definition, greater than the Local Collection Capacity Charges normally owed by the developer). Then, if and when future development does occur in the area served by the Pipeline Project, the original developer would recover the equivalent of the then-current Local Collection Capacity Charges from the subsequent developers.

The following terms are proposed to serve as a framework for detailing a formal District policy:

- The District is authorized to designate any development as being Under Scaled if the projected Local Collection Capacity Charge revenue is less than 50 percent of the cost of the required pipeline expansion project (including soft costs).
- The designation of a development as Under Scaled District would be influenced by the **District’s understanding of the** potential for future development in the area. The District would have the discretion to determine whether that growth potential was sufficient to adequately fund the Pipeline Project (i.e., generate Local Collection Capacity Charge revenue equal to at least 50 percent of the cost of the pipeline project).
- The developer of an Under Scaled project would be required to pay for 50 percent of the cost of the Pipeline Project (**hereafter referred to as the “Developer Finance Contribution”**).
- The difference between the Developer Finance Contribution and the amount that the developer would have otherwise paid through Local Collection Capacity Charges is the

amount that would be eligible to be reimbursed to the developer through the Local Collection Capacity Charges paid by future developers (“Reimbursable Amount”).

12. ADMINISTRATION AND UPDATES

The following describes the District’s on-going administrative responsibilities regarding the Capacity Charges.

12.1. REPORTING REQUIREMENTS

As previously discussed, when using the Incremental methodology, the District is responsible for reporting the use of the *Incremental portion* of the Capacity Charge revenue to demonstrate that the revenue is being used to fund expansion-related capital projects. For reference, Appendix A includes the statutory requirements for accounting for Capacity Charges. On an annual basis the District should report the annual Capacity Charge revenue, the use of funds, the beginning and ending balance of the designated fund, and a description of how the funds were used in the previous year. Additional reporting requirements are listed in Government Code Section 66018.

12.2. INFLATIONARY ADJUSTMENTS

The District may elect to annually adjust the Capacity Charges for the effects of inflation using the CCI. The Capacity Charges in Table 4 have been indexed to a CCI value of 13,111 (June 2022).

APPENDIX A – GOVERNMENT CODE SECTIONS 66013, 66016, 66022, AND 66023

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 facilities in existence at the time a charge is imposed or charges for new facilities to be constructed in the future that are of benefit to the person or property being charged.

(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.

(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.

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, 57004, 65104, 65456, 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.

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 and 66014.

66023. (a) Any person may request an audit in order to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product or service provided by the local agency. If a person makes that request, the legislative body of the local agency may retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable.

(b) Any costs incurred by a local agency in having an audit conducted by an independent auditor pursuant to subdivision (a) may be recovered from the person who requests the audit.

(c) Any audit conducted by an independent auditor to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of providing the product or service shall conform to generally accepted auditing standards.

(d) The procedures specified in this section shall be alternative and in addition to those specified in Section 54985.

(e) The Legislature finds and declares that oversight of local agency fees is a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this chapter shall supersede all conflicting local laws and shall apply in charter cities.

(f) This section shall not be construed as granting any additional authority to any local agency to levy any fee or charge which is not otherwise authorized by another provision of law, nor shall its provisions be construed as granting authority to any local agency to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.