



**California Special  
Districts Association**  
*Districts Stronger Together*

[CONTACT US](#) [JOIN](#) [SUPPORT](#)



[LOGIN](#)

## Blog Viewer

### 2023 New Laws Series, Part 3: Connection Fee and Capacity Charge Requirements for Public Agencies



By Vanessa Gonzales posted 12 days ago

0 LIKE

Contact us





*By Rob Anslow and Jeff Hoskinson, Atkinson, Andelson, Loya, Ruud & Romo*

Beginning January 1, 2023, State law has been amended to alter, slightly, the process by which local agencies will be required to evaluate and impose water and sewer connection fees and capacity charges.

California law allows various types of public agencies, including cities, counties, and special districts, to impose charges upon new development projects (or in certain cases re-development projects) that will result in an impact on the service facilities or systems operated by the relevant public agency. These charges are known as development impact fees, connection fees and capacity charges. Capacity charges help fund existing or new public facilities that are of proportional benefit to the property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and other capital expenses. Connection fees pay for the

Contact us

physical facilities necessary to make a water connection or sewer connection, including, but not limited to, meters, pipelines, and the estimated reasonable cost of labor and materials for installation. These types of charges are typically a condition of approval of the development project by the relevant local public agency.

Among the requirements applicable to development impact fees, inclusive of capacity charges and connection fees, is that a relationship must be established between the charge and the nature of the use of the facilities or system burdened by the development project. The amount of the charge must bear a reasonable relationship to the actual cost the development will impose upon the system or facilities for which the charge is being imposed. Such charges cannot exceed the reasonable cost of service (if they do, they may become a special tax which must then go through the California Constitutional process for special tax approvals). In establishing the foregoing relationships and nexus, the California State Legislature has placed upon the public agency the burden of demonstrating compliance with such criteria.

Assembly Bill 2536 (Grayson), chaptered as Chapter 128 of Statutes of 2022, has specific provisions that impact a local agency's imposition of capacity charges and connection fees. Specifically, AB 2536 clarifies that agencies must evaluate the amount of such fee or charge. AB 2536 further provides that such "evaluation" must include evidence to support that the connection fee or capacity charge does not exceed the reasonable cost of service, consistent with the limitations already imposed by Government Code section 66013(a). As such, local agencies imposing such fees must carefully consider the support and documentation they are utilizing to support any new or modified connection fee or capacity charge. Such documentation, consistent with existing requirements, must be made publically available at least 14 days before the governing body's meeting to consider the approval of such fees and charges.

Whether the "evaluation" requires local agency legislative body involvement is not specified within the legislation, nor is any discussion as to the specific analysis required for such evaluation. Prudent approaches to such an evaluation strongly suggest that a qualified expert analysis (which may be in the form of a consultant, a qualified expert, or a similar type of review) should be included in the evaluation process. [Contact us](#) for more information.

the process, though such is not mandated in statute. Factors such as outside standards, historical use data, industry conventions, and engineering presumptions may all be helpful to consider when providing for such evaluation in order to develop a supported and defensive fee or charge. Agencies may also wish to utilize the services of legal counsel to evaluate whether or not the nexus and relationship descriptions are sufficient to allow for a reviewing body (such as a court) to evaluate the basis of the findings upon a layperson's understanding rather than relying strictly upon expert terminology.

Special districts and other public agencies should consult their legal counsel for guidance as to the specific requirements for connection fees and capacity charges, as well as other development impact fees necessary to fund their public facilities.

**Stay tuned to the New Laws Series in *CSDA eNews* for more in-depth analyses on new laws affecting special districts.**

*Missed Part 1? Read it now: [LAFCO Protest Procedures](#)*

*Missed Part 2? Read it now: [Unpaid Water Service Bills: Where We are in 2023](#)*

*Communication is provided for general information only and is not offered or intended as legal advice. Readers should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised in these communications.*

#AdvocacyNews

#FeatureNews

#Revenue

#ImpactFees

0 comments

2509 views

Contact us

## Permalink

<https://www.csda.net/blogs/vanessa-gonzales/2022/11/15/2023-new-laws-series-part-3-connection-fee-and-cap>



1112 "I" Street,  
Suite 200  
Sacramento CA,  
95814  
[877.924.2732](tel:877.924.2732) |  
[916.442.7887](tel:916.442.7887)

### FIND IT FAST

[SDLF Scholarships](#)  
[Register for an Event](#)  
[Career Center](#)  
[Membership](#)  
[Information](#)  
[Take Action](#)  
[Bill Tracking](#)  
[Knowledge Base](#)  
[Privacy Policy](#)

### CALIFORNIA SPECIAL DISTRICTS ALLIANCE



### SPECIAL DISTRICT LEADERSHIP FOUNDATION

Contact us





**DISTRICTS MAKE THE DIFFERENCE**

**DISTRICTS**  
MAKE  
THE  
**DIFFERENCE**

**CALIFORNIA CLASS**

California  
**CLASS**

Contact us

