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League of California Cities
Technical Assistance Memorandum
Funding Stormwater Programs under Proposition 218
May 22, 2014

I. Introduction: Fee-funding of stormwater programs

This memorandum is intended to briefly answer this question: May some or all of a city's obligations to develop and implement stormwater management plans to reduce discharge of pollutants into federal and state waters be funded by property-related water or sewer service fees subject to Proposition 218?[1] The authors of this memorandum conclude that, under existing law, the answer is "yes," to the extent implementation of the plan produces or sufficiently relates to either "water" service as defined in Cal. Gov. Code § 53750, subdivision (m); or to sewer service.

However, if a stormwater program provides only environmental benefits — for example, by treating runoff to avoid polluting federal or state waters — water and sewer fees cannot be used for stormwater program costs, and a fee for this purpose will require voter or property owner approval under Proposition 218 (Cal. Const. art. XIII D, § 6, subd. (c).)

Whether a particular use of the proceeds of property-related water or sewer service fees is permissible under Proposition 218 is ultimately a question of fact to be decided on the basis of the a city's rate making administrative record . Accordingly, cities are well advised to develop records to support their fees that include ample evidence to support the intended use of the proceeds of those fees.

A. Environmental Regulations

Under the federal Clean Water Act (33 U.S.C. §§ 1251 et seq.) and state Porter-Cologne Water Quality Control Act (Cal. Water Code §§ 13000 et seq.), cities, counties, and other local governments that own stormwater systems are required to develop and implement plans to reduce the level of pollutants discharged into federal and state waters.

These requirements are generally established through permits issued under the National Pollutant Discharge Elimination System (NPDES) permits for municipal separate storm sewer systems (MS4s) issued by the State Water Resources Control Board and the nine Regional Water Quality

[1] This memorandum only addresses property-related fees for water and sewer service provided by local governments subject to Proposition 218. Many water and sewer fees are not property-related fees because they are not triggered by property ownership alone and do not constitute a service essential to most uses of property. Examples include development impact fees and charges for new water service connections. Accordingly, references in this memorandum to "water and sewer fees" are to property-related water and sewer service fees.

Control Boards. A full discussion of these requirements is beyond the scope of this memorandum, which answers a narrower question of paying for program costs. Additional detail regarding those clean-water requirements appears in an appendix to this memorandum.

B. Proposition 218

Adopted in 1996, Proposition 218 added Cal. Const. art. XIII D to the California Constitution, which, among other things, established new procedural and substantive requirements for property related fees and charges. (See the League of California Cities *Proposition 218 Implementation Guide* (2007) for a more complete discussion.)

The substantive requirements of art. XIII D for property related fees appear in art. XIII D, § 6, subd. (b)(1)–(5):

- revenues derived from a property related fee must not exceed the funds required to provide the property related service (**the total service cost limitation**);
- revenues derived from the fee must not be used for any purpose other than that for which the fee is imposed (**the use limitation**);
- the amount of a fee imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to the parcel (**the proportional cost limitation**);
- the fee may not be imposed for a service unless the service is actually used by, or immediately available to, the owner of the property subject to the fee. Fees based on potential or future use of a service are not permitted, and stand-by charges must be classified as assessments subject to the ballot protest and proportionality requirements for assessments (**the future services prohibition**); and
- no fee or charge may be imposed for general governmental services, such as police, fire, ambulance, or libraries, where the service is available to the public in substantially the same manner as it is to property owners (**the general government service prohibition**).

A public agency has the burden to prove compliance with these substantive provisions if a fee is challenged in court. (Cal. Const., art. XIII D, § 6(b)(5).)

The procedural requirements for new or increased fees are established by art. XIII D, § 6, subd.(a) and (c). Section 6(a) establishes public hearing notice and majority protest requirements. Section 6(c) establishes voter or property-owner approval requirements. Fees for water, sewer, and refuse collection services are exempt from the requirement for voter or property-owner approval.

Shortly after Proposition 218 was adopted, the Legislature adopted the Proposition 218 Omnibus Implementation Act of 1997 (the Omnibus Act) to clarify the measure. The Omnibus Act defines "water" to mean "any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water." (Gov. Code, § 53750, subd. (m).) The next section of this memorandum discusses two appellate cases that address fees for services related to stormwater. In the first, involving a drainage fee, the purpose of the system of improvements was to remove and dispose of stormwater — not to provide a water supply or sanitary sewer service. The court concluded the fee was not for water or sewer service as those services are commonly understood and was subject to the voter or property-owner approval requirement of art. XIII D, § 6, subd. (c). However, in the second case, the court found that systems intended to recharge a groundwater basin — including through gathering, treating, blending, and otherwise beneficially using storm and other water — provided "water" service within the meaning of the Omnibus Act such that a fee for that service was not subject to voter or property-owner approval.

C. Court Decisions Impacting Stormwater Service Fees

1. Howard Jarvis Taxpayers Association v. City of Salinas

The City of Salinas (City) adopted a program to fund and maintain its stormwater compliance program to comply with the amendments to the federal Clean Water Act regulating stormwater. The program included an annual fee imposed on developed property that used the City's stormwater drainage system, measured by the impervious area of each parcel. The Howard Jarvis Taxpayers Association challenged the fee, claiming it was a property related fee or charge imposed without a vote of the affected property owners or voters required by art. XIII D, § 6, subd. (c). (*Howard Jarvis Taxpayers Association v. City of Salinas*, 98 Cal. App. 4th 1351, 1353 (2002).)

The City argued the fee was not a property related fee or charge subject to Proposition 218, but rather a user fee which a property owner could avoid simply by retaining stormwater on his or her property. The court rejected this argument, concluding the fee "'burden[s] landowners as landowners,' and is therefore subject to the voter-approval requirements of art. XIII D unless an exception applies." (*Id*. at 1355.)

The City asserted two exemptions to the voter-approval requirement. First, the City argued the fee was not subject to the voter-approval requirement because stormwater is carried off in storm "sewers," and therefore the fee was exempt because it was for "sewer services." The City cited dictionary definitions of "sewer" to support its argument that "sewer" as used in art. XIII D § 6, subd. (c) includes both sanitary and storm sewers. (*Id*. at 1356 & n.5.) The City also cited the definition of "sewer system" provided in California Public Utilities Code § 230.5. (*Id*. & n.6.)

The court was unpersuaded. The court noted that the City did not have an integrated storm and sanitary sewer system. In fact, the City's storm sewer system excludes sewage and industrial wastes other than runoff. Invoking the rule that the plain meanings of words used in legislation apply to its construction, the court found that "[t]he popular, nontechnical sense of sewer service,

particularly when placed next to 'water' and 'refuse collection' services, suggests the service familiar to most households and businesses, the sanitary sewerage system." (*Id*. at 1357.) The court further acknowledged that "the term 'sewer services' is ambiguous in the context of both section 6(c) and Proposition 218 as a whole," but it was mindful of "the voters' intent that the constitutional provision be construed liberally to curb the rise in 'excessive' taxes, assessments, and fees exacted by local governments without taxpayer consent." (*Id*. at 1357–1358 [citing Proposition 218, §§ 2, 5].) Consequently, the court gave "'sewer services' its narrower, more common meaning applicable to sanitary sewerage." (*Id*. at 1358.)

The court held:

> The stated purpose of [the City storm drainage fee ordinance] was to comply with federal law by reducing the amount of pollutants discharged into the storm water, and by preventing the discharge of "non-storm water" into the storm drainage system, which channels storm water into state waterways… . [T]he City's storm drainage fee was to be used not just to provide drainage service to property owners, but to monitor and control pollutants that might enter the storm water before it is discharged into natural bodies of water.

(*Id*. at 1358.) If the City operated a combined sanitary sewer and stormwater system, the court's discussion suggests the result would have been different.

The City also argued that the fee was exempt from the voter approval requirement as a fee for water service. The City relied on the Omnibus Act's definition of "water." The court rejected the argument, reasoning that an average voter would understand "water service" as the supply of water for personal, household, and commercial use, not a system or program that monitors stormwater for pollutants, carries it away, and discharges it into the nearby creeks, rivers, and the ocean.

2. Griffith v. Pajaro Valley Water Management Agency

In *Griffith v. Pajaro Valley Water Management Agency* (2013) 220 Cal.App.4th 586, the court found that a fee imposed by the Pajaro Valley Water Management Agency (Agency) to pay the cost of a supplemental water program — which included stormwater capture and treatment for groundwater recharge — was a fee for water service exempt from Proposition 218's voter approval requirement. The Agency is a special district created to manage the water resources of the Pajaro Valley Groundwater Basin. It is authorized to levy charges on the extraction of groundwater "for the purposes of paying the costs of purchasing, capturing, storing, and distributing supplemental water for use within the [A]gency's boundaries]." (*Id.* at 591.)

The Pajaro Basin has been subjected to chronic overuse, resulting in overdraft and seawater intrusion, particularly near the coast. To protect the basin, the Agency implemented a program to deliver supplemental water to some coastal users and develop other supplemental water projects. Its groundwater management strategy includes the use of recycled wastewater, supplemental wells, and captured stormwater runoff. The cost of this program is funded in part through groundwater augmentation charges imposed on all properties served by wells within the Agency's boundaries.

In a prior case, *Pajaro Valley Water Management Agency v. Amrhein*, 150 Cal.App.4th 1364, 1370 (2007), the court held that the Agency's groundwater augmentation charges were property related fees governed by art. XIII D, § 6. Because the Agency did not follow the requirements of Proposition 218, the court invalidated the charges. The Agency readopted the charges following the requirements of Proposition 218 and a group of landowners sued again.

In *Griffith*, the court addressed a number of challenges to the augmentation charge, including a claim that it was not for "water service" and therefore subject to the voter approval requirement.

Citing the Omnibus Act's definition of "water," the court stated:

> [T]the Legislature has endorsed the view that water service means more than just supplying water. The Proposition 218 Omnibus Implementation Act, enacted specifically to construe Proposition 218, defines "water" as "any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water." (Cal. Gov. Code, § 53750, subd. (m).) Thus, the entity that produces, stores, supplies, treats, or distributes water necessarily provides water service. Defendant's statutory mandate to purchase, capture, store, and distribute supplemental water therefore describes water service.

(Id. at 595.) As the court explained, "water service" within the meaning of Proposition 218 includes domestic water delivery through pipes in urban settings and the groundwater augmentation program to deliver water to rural residents via groundwater. Charges for this service do not differ from a charge on delivered water for purposes of Proposition 218. The court recognized that "water service" means more than just delivering water; it includes managing a groundwater basin and ensuring an ongoing, potable supply of groundwater to that basin.

Based on *Griffith*, if stormwater runoff is managed and used to directly or indirectly support the production, storage, treatment or distribution of water (i.e. a water service function), the costs to do so may be funded from water service fees.

The *Griffith* plaintiffs also claimed that the groundwater augmentation charge was disproportionate to the cost of service because inland rural residents do not use the services for which the charges are imposed, i.e., they do not purchase the supplemental water piped to coastal farms to prevent saltwater intrusion by reducing pumping there. The court rejected that claim as overlooking that "'the management of the water resources … for agricultural, municipal, industrial, and other beneficial uses is in the public interest …' and [the Agency] was created to manage the resources 'for the common benefit of all water users.'" (*Id*. at 600.) The court therefore found that the groundwater augmentation charges did not exceed the proportionate cost of providing the service because all groundwater users benefit from the Agency's groundwater management activities, not just the coastal users receiving supplemental water. (*Id*. at pp. 600, 602 [Plaintiffs failed to acknowledge that "the groundwater augmentation charge pays for the activities required to prepare or implement the groundwater management program for the common benefit of all well users."].) [2]

[2] The authors note that the court's use of the word "benefit". The term "special benefit" has a particular meaning in the context of assessments under art. XIII D, § 4. This is potentially confusing in the context of property related fees

This aspect of the court's ruling shows that capturing and reusing stormwater is a water service within the meaning of Cal. Water Code § 53750(m) and can serve all water users within a service area. First, as previously noted, it protects a public agency's water supply (which the *Griffith* court determined to be "water service"). Second, it provides water supply. Supplying reused stormwater to ratepayers who can use it displaces the demand for local potable supplies that can thus be made available to others. As such, all water users within a public agency's service area are served by the new water supply and all ratepayers should share in the costs of capturing and reusing stormwater runoff to all water ratepayers, even those who may not receive the reused stormwater. It should be noted that these conclusions in *Griffith* turned on evidence in the Agency's rate-making record that all users of waters west of the San Andreas Fault are actually served by its groundwater recharge efforts. Thus, the extent to which *Griffith* will support similar fees elsewhere will turn on record evidence regarding groundwater flows, groundwater use, and service beneficiaries in the basins served by the rate-making agency.

II. What stormwater functions may be funded by water or sewer fees without the election required by art. XIII D, § 6, subd. (c)for other property related fees?

A. Funding Stormwater Capture for Water Supply

Based on *Salinas*, it is clear that stormwater captured and discharged into a stream, river, or the ocean is "drainage", not water or sewer service. As such, fees imposed on property or persons as an incident of property ownership for such drainage services are subject to the Article XIII D, section 6(a) and (b) majority protest and cost of service requirements, and also the voter or property-owner approval requirements of Article XIII D, section 6(c). But *Griffith* makes clear that the costs that can be funded by water service charges are not limited strictly to "supplying water" directly to customers.

The opinion's description of the services provided pursuant to the Agency's groundwater management plan illustrates the types of costs that may be recovered from fees for water service. Those programs include funding a portion of the costs of a recycled water project to offset agricultural groundwater use; diverting stormwater flows for groundwater recharge; and developing and operating a water distribution system near the coast to avoid groundwater pumping there and the resulting seawater intrusion. (*Id*. at p. 591.)

In light of *Griffith*, cities may use water service charge revenues to fund stormwater projects and activities that involve the production, storage, supply, treatment, or distribution of water, i.e. water service functions. Examples include facilities and services that:

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under art. XIII D, § 6 . As to property related fees, the question is whether a particular use of the proceeds of a property related fee serves the "purpose … for which the fee or charge was imposed." (Cal. Const., art. XIII D, section 6, subd. (b)(2).) Thus, although *Griffith* and other cases use the word "benefit" in the context of property related fees, and Proposition 26 uses the term as to other fees (Cal. Const., art. XIII C, § 1, subd. (e) [final unnumbered para.], this memorandum avoids the term to avoid confusion. In any event, it is clear that "benefit" when used in the context of property related fees does not mean "special benefit" to property as that phrase is used in the assessment context and as defined in Article XIII D, section 2(i).

- Produce a water supply (such as the diversion of stormwater flow for groundwater recharge as approved in *Griffith*);
- Displacing demand for existing water uses (such as a recycled water project that offsets demand as described in *Griffith*); and
- Projects and activities that protect the quality of a water agency's existing water supplies (such as a stormwater quality project that prevents contamination of an agency's water supplies).

B. Costs Consistent with Sewer and Water Service

Although not directly addressed in *Salinas* or *Griffith*, by analogy, sewer service fees arguably may be used to fund stormwater-related activities that collect, treat, and lawfully dispose of wastewater where those activities produce or sufficiently relate to sewer service and serve a sewer service function. For example, inflow and infiltration ("I&I") of stormwater into a municipal sewer collection system and private sewer laterals may significantly increase the volume of wastewater that reaches a wastewater treatment plant. In some instances, a sewer main or treatment plant may not have sufficient capacity to handle I&I, resulting in sanitary sewer overflows ("SSOs"). For example, a sewer agency may likely fund a stormwater project designed to reduce I&I into its sewer system. Such projects reduce costs incurred at treatment plants and thus serve the purpose for which sewer service fees are imposed. Such projects may also be justified on the ground they are necessary to avoid overflows during storm events in violation of a sewer agency's NPDES permit.

I&I water is called "clear water," to distinguish it from wastewater. Stormwater, by contrast, typically refers to surface runoff following storm events, but a portion of precipitation during storms becomes I&I. I&I also results from water leaks, overwatering, and other sources. The concept of I&I focuses on the unwanted presence of additional water in sanitary sewers rather than on the source of that water. Regardless of its source, I&I is costly to transport, treat and dispose of and therefore it makes sense to prevent it to the extent practical.

During dry weather, I&I can vary from a minimal portion to a significant portion of sanitary system flow. Wet weather greatly increases I&I and can fill a sewer system to capacity. If so, wastewater can overflow, flooding basements, households, or businesses, and possibly release wastewater onto streets or into natural waterways (i.e., SSOs). Such events impose costs on wastewater utilities and, under certain circumstances, water enterprises. These costs include:

- I&I may require expanded capacity of the collection system and/or a wastewater treatment plant.
- I&I may cause SSOs and combined sewer overflows ("CSOs") violating MS4 permits and other regulations, leading to fines, penalties, and environmental impacts.
- I&I may adversely impact wastewater treatment plant operations and increase pollutant discharges.
- I&I may increase the cost to collect and treat wastewater, reducing the lifetime-capacity of a treatment plant, the collection system, and associated pumps.
- I&I may deplete groundwater, making a significant volume of water unavailable for water supply or for the environment.

- SSOs and CSOs may cause significant health risks, as they release wastewater and potential pathogens onto streets, into waterways and water supplies, and onto improved property.
- SSOs and CSOs into water supplies may adversely affect water quality and treatment and increase treatment costs.

Accordingly, there can be significant cost savings to sewer and/or water users in preventing I&I into a sanitary sewer system or a water source or system. Under *Griffith*, when it can be demonstrated that an I&I prevention program produces or sufficiently relates to sanitary sewer and/or water service (i.e., serves a sanitary sewer or water services function), that program may be funded with sewer and/or water service fees. The agency must comply with the majority protest and cost of service requirements of art. XIII D, § 6, subd. (a) and (b), but it need not obtain voter or property-owner approval pursuant to subsection 6(c) because the program provides or sufficiently relates to "water" and/or "sewer" service. There is no authority squarely on point, as this issue has not been litigated. However, the authors believe that the logic of *Griffith* provides substantial support for this conclusion. Again, the quality of evidence in the ratemaking administrative record to show that these expenditures produce or sufficiently relate to water and/or sewer service will be crucial.

Conversely, costs of collecting, treating, and disposing of stormwater in ways that do not produce or sufficiently relate to sanitary sewer and/or water service may not be funded with sewer and/or water service fees. Therefore, under *Salinas*, fees to fund those services must be adopted in compliance with the majority protest and cost of service requirements of Article XIII D, section 6(a) and (b) as well as the voter or property-owner approval requirement of Article XIII D, section 6(c).

III. Conclusion

Government Code § 53750, subdivision (m) as interpreted by *Griffith* gives local agencies substantial freedom to use water rate proceeds to obtain, manage, and protect water resources, including efforts to harvest stormwater to augment other supplies and to protect existing water supplies from pollutants carried by stormwater so long as the relationship between the use of rate proceeds and water service is established in the record. By analogy, sewer system operators may fund stormwater activities that reduce the costs, or otherwise achieve the objectives of, providing adequate and lawful sanitary sewer service to their customers. Existing law, however, does not allow use of water or sewer service fees to fund efforts to manage storm flows for purely environmental or flood control purposes. Rather, a fee approved by voters or property owners under art. XIII D, § 6, subd. (c) may fund such efforts, as could a general or special tax or, conceivably, an assessment if special benefit to property may be shown.

Appendix

Clean Water Act Requirements

The Federal Water Pollution Control Act was first enacted in 1948 and relied primarily on state and local enforcement measures to remedy water pollution problems. (*Middlesex County Sewerage Auth. v. Sea Clammers*, 453 U.S. 1, 11 (1981).) By the early 1970s, however, it became apparent that local enforcement measures were not sufficient to prevent the accelerating degradation of public waters. (See *EPA v. State Water Res. Control Bd.*, 426 U.S. 200, 203 (1976).) In response to these environmental concerns, Congress amended the Federal Water Pollution Control Act in 1972 to mandate compliance with various minimum technological effluent standards established by the federal government and creating a comprehensive regulatory scheme to implement these standards. (See *id*., at pp. 204–205.) This law, now commonly referred to as the Clean Water Act ("Act"), sought to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).)

Pursuant to the Act, pollutant emissions from "point sources" are prohibited unless the party discharging the pollutants obtains a National Pollutant Discharge Elimination System ("NPDES") permit. (See *EPA*, 426 U.S. at 205.) It is "unlawful for any person to discharge a pollutant without obtaining a permit and complying with its terms." (*Id*.; see 33 U.S.C. § 1311(a).) Initially, the regulations promulgated by the United Stated Environmental Protection Agency ("EPA") pursuant to the Act exempted most municipal storm sewers from the NPDES permit requirements. Environmental groups, however, challenged this exemption in federal court. In *Natural Resources Defense Council, Inc. v. Costle*, 568 F.2d 1369, 1374–83 (D.C. Cir. 1977), the Ninth Circuit held a storm sewer is a point source and the EPA did not have the authority to exempt such a category of point sources from the Act's NPDES permit requirements.

Subsequent to *Costle*, the EPA made numerous attempts to reconcile the statutory requirement of point source regulation with the practical problem of regulating millions of diverse point source discharges of stormwater. (See *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1163 (9th Cir. 1999).) Beginning in the 1980s, stormwater discharges from municipal storm sewer systems and the impact of such discharges on water quality became a focus of federal regulatory requirements. In 1987, the Act was amended to add section 402(p). Section 402(p) defined stormwater discharges from municipal systems and industrial activities (including construction) as point sources subject to the NPDES permit program. This section further directed the EPA to publish regulations to define the discharges subject to NPDES permits and to establish a framework for regulating these discharges. (See 33 U.S.C. § 1342(p).) The federal regulations implementing section 402(p) of the Act require municipalities to employ controls to reduce the discharge of pollutants from their storm sewer systems. (See 42 C.F.R. § 122.26.) The stormwater regulations promulgated by the EPA established a two-phase approach for municipal systems. Phase I began in 1990 and addressed discharges from municipal separate storm sewer systems ("MS4s") serving more than 100,000 people. Phase II began in 1999 and addressed discharges from MS4s in urbanized areas serving fewer than 100,000 people.

In 1969, the California Legislature the Porter-Cologne Water Quality Act ("Porter–Cologne Act") to seek to attain "the highest water quality which is reasonable." (Cal. Water Code §

13000.) The Porter-Cologne Act created the State Water Resources Control Board to formulate statewide water quality policy. It also created nine regional boards to adopt water quality plans and to issue permits for the discharge of waste. (Cal. Water Code §§ 13100, 13140, 13200, 13201, 13240, 13241, 13243.)

After the 1972 adoption of the Act, the California Legislature amended the Porter-Cologne Act to adopt federal requirements to ensure California's water boards would obtain EPA approval to issue NPDES permits. (Cal. Water Code § 13370.) In accordance with the Act, the EPA authorized the State as the stormwater permitting authority within the State. (See 33 U.S.C. § 1342(b); Cal. Water Code § 13370.) California cities and counties are regulated through NPDES MS4 permits issued by the State Water Resources Control Board and the nine regional water quality control boards. MS4 permits require dischargers to develop and implement stormwater management plans to reduce the discharge of pollutants to the maximum extent practicable. (See 40 C.F.R. § 122.26(d)(2)(iv); 33 U.S.C. 1342(p).)

The Act requires significant and continuing capital construction, operation and maintenance requirements for storm sewer systems, stormwater quality facilities, pollutant source control programs, flood control facilities, vector control, drainage corridors, and detention facilities. These requirements are beyond the capacity of most property owners and are provided by local governments through their stormwater service and regulatory programs pursuant to the MS4s' NPDES permits.

Standard of Judicial Review of Rate-making

Before the 1996 adoption of Proposition 218, courts gave great deference to legislative determinations regarding most fees. In *Brydon v. East Bay Municipal Water District*, the court articulated this standard of review of Proposition 13 challenges to fees, stating:

> Given the quasi-legislative nature of [a public agency's] enactment of the rate structure design, review is appropriate only by means of ordinary mandate where the court is limited to a determination of whether [the public agency's] actions were arbitrary, capricious or entirely lacking in evidentiary support.

In *City of Palmdale v. Palmdale Water District*, 198 Cal. App. 4th 926 (2011), however, the court determined that, under Proposition 218, the validity of property-related fees is a constitutional question that the courts are obligated to enforce. Consequently, courts exercise their independent judgment in reviewing local agency decisions on property-related fee matters.

Because a public agency has the burden to demonstrate compliance with art. XIII D, § 6 and the heightened independent judicial review, when establishing rates for property-related fees, a public agency must allocate the costs of providing the service among fee payors in a fair and reasonable manner, and must document the methodology used and the justification for the allocation. Thus, if a public agency chooses to fund all or a portion of its stormwater services with water and/or sewer service fees, it must analyze and document the advantages to the water and/or sanitary sewer system from the facilities or services to be funded and that the charge for those services to water or sewer customers is allocated in proportion to the reasonable cost of serving each customer.