

Tiered water rates hinge on court decision

By Carolyn Lochhead, San Francisco Chronicle

California cities could lose a big tool to encourage water conservation in an intently watched court case from San Juan Capistrano, a picturesque mission town in Orange County where a taxpayer group has challenged the city's authority to charge homeowners more money for using more water.

The Capistrano Taxpayers Association won in lower court, and a state appeals court is expected to rule any day. If the taxpayer group prevails, water districts say, it could make it harder for them to achieve the deep reductions in water usage Gov. Jerry Brown ordered last week.

With the Sierra snowpack at a record low of 5 percent of normal, water officials argue that pricing incentives for residential consumers are vital to encourage conservation. Since a severe drought in the 1980s, about two-thirds of urban water utilities have used tiered rates, which charge higher prices for higher volumes of water used.

But the taxpayers group won at trial court in 2013, arguing that Proposition 218, approved by California voters in 1996, bars any local government agency, including water utilities, from raising rates above cost. The city appealed and a decision is due this month.

Proposition 218 is a follow-up to Proposition 13, the landmark 1978 law that prevents local governments from raising property taxes without approval by two-thirds of voters. Looking to make up for that loss of revenue, local governments quickly began turning to various fees and assessments. Taxpayer groups responded with Proposition 218, which requires fees for essential services be based solely on the cost of providing

them.

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