The Sacramento-San Joaquin Delta.
(Photo: brothergrimm / flickr)

Early this past Wednesday morning, following an all-night session that would have made any college freshman proud, the California Legislature enacted major legislation designed to address the myriad problems affecting California's Sacramento-San Joaquin Delta. The package of five bills, SB 7X 1, SB 7X 2, SB 7X 6, SB 7X 7, and SB 7X 8, which now go to Governor Arnold Schwarzenegger for his expected signature, also addresses broader issues of California water supply and water rights.

My colleague Cara Horowitz has recently posted on this development, but let me offer my own perspective: This legislative package follows years of political debate and a two-year review process by the Delta Vision Task Force, an advisory body appointed by Governor Schwarzenegger to provide its policy recommendations to the Governor and Legislature. (Full disclosure statement: this author served as a member of that seven-member Task Force.)

The legislation enacted this week has several components: it adopts the Task Force recommendation that restoration of the California Delta's severely damaged ecosystem and preservation of a reliable water supply for all Californians are co-equal policy goals and legal requirements. It revamps California's existing, largely dysfunctional governance system for the Delta, principally by creating a new, state-level Delta Stewardship Council. It proposes an $11 billion Bond Act–subject to voter approval in 2010–to fund a variety of future ecosystem restoration and water improvement projects. And the bill package makes changes to California's statewide system of water conservation, water rights and water rights enforcement.

This legislative package, without question, constitutes a major development in California environmental law and policy. It represents a long-overdue governmental response to the well-documented environmental decline of the largest estuary on the West Coast of the Americas. Additionally, the new laws reflect a new, statewide commitment to water conservation efforts. And the legislation represents the California Legislature's first serious attempt to address the state's water rights system in decades.

There is much to applaud in the legislation. It commits substantial public funding and commitment to desperately needed Delta ecosystem restoration. The bill

package fundamentally re-organizes the state governance system that will oversee Delta regulatory, planning and restoration efforts. And it reflects long-overdue and necessary steps to address water rights enforcement and water conservation efforts on a statewide basis.

At the same time, the new legislation is far from perfect. The proposed, revised Delta governance structure is significantly less sweeping than that proposed by the Delta Vision Task Force. The water conservation mandates contained in the legislation are largely aspirational, and lack strong means of enforcement. The water rights reform provisions were greatly weakened in the course of the legislative debates, and it's questionable at best whether they will have much long-term effect in reforming California's dysfunctional water rights system. Finally–and most importantly–it is far from certain that California voters will be willing to approve the major, new public indebtedness needed to fund Delta ecosystem restoration and related projects.

California legislators deserve credit for passing much-needed Delta legislation. Whether that legislation is adequate to meet the critical environmental, political and fiscal crisis currently facing the California Delta is the tougher question.