An act to add Chapter 9 (commencing with Section 7095) to Part 1.7 of Division 6 of the Fish and Game Code, relating to marine fisheries.
THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 9 (commencing with Section 7095) is added to Part 1.7 of Division 6 of the Fish and Game Code, to read:

CHAPTER 9. FORAGE SPECIES

7095. This chapter shall be known, and may be cited, as the Forage Species Conservation and Management Act of 2011.

7096. The Legislature finds and declares all of the following:

(a) Forage species are an integral part of the California Current Large Marine Ecosystem and are of great ecological, economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic importance to the people of California.

(b) Populations of forage species lack baseline scientific data and face a multitude of risks, including, but not limited to, ocean acidification, pollution, overfishing, global climate change, and demand for feeds in the agriculture and aquaculture industries.

7097. As used in this chapter:

(a) “Ecosystem-based management” means a management approach that recognizes the full array of interactions within an ecosystem, including humans, rather than considering single issues, species, or ecosystem services in isolation.

(b) “Emerging fishery,” in regard to a marine fishery, means both of the following:

(1) A fishery that the director has determined is an emerging fishery, based on criteria that are approved by the commission and are related to a trend of increased
landings or participants in the fishery and the degree of existing regulation of the fishery.

(2) A fishery that is not an established fishery. "Established fishery," in regard to a marine fishery, means, prior to January 1, 1999, one or more of the following:

(A) A restricted access fishery that has been established in this code or in regulations adopted by the commission.

(B) A fishery, for which a federal fishery management plan exists, and in which the catch is limited within a designated time period.

(C) A fishery for which a population estimate and catch quota is established annually.

(D) A fishery for which regulations for the fishery are considered at least biennially by the commission.

(E) A fishery for which this code or regulations adopted by the commission prescribes at least two management measures developed for the purpose of sustaining the fishery. Management measures include minimum or maximum size limits, seasons, time, gear, area restriction, and prohibition on sale or possession of fish.

(c) "Existing fisheries" means fisheries that, as of January 1, 2012, are prosecuted in the state waters of California or subject to management by the department in which forage species are targeted or are a major component of the catch.

(d) "Forage species" means any fish or invertebrate species that contributes significantly to the diets of fish, birds, mammals, or turtles, or otherwise contributes disproportionately to ecosystem function and resilience due to its role as prey.
(e) "Precautionary approach" means that if an action or policy has the potential of causing harm to public resources, in the absence of scientific consensus, the burden of proof is on the proposer of the action to show the lack of harm before an action or policy is implemented. If there is a threat of serious or irreversible damage to a forage species or an ecosystem in which the forage species plays a significant role, the lack of full scientific certainty shall not constitute a reason to postpone cost-effective measures to prevent environmental degradation.

(f) "Undeveloped fisheries" means potential fisheries for forage species that are not currently pursued in state waters.

7098. (a) It is the policy of the state to ensure the conservation, sustainable use, and, where feasible, restoration of California’s forage species populations for the benefit of all citizens of the state. The objective of this policy shall be to achieve ecosystem-based management of marine forage species through application of a precautionary approach that recognizes, prioritizes, accounts for, and incorporates the ecological services rendered by forage species. It is the further policy of this state, regarding utilization of forage species landed in the state, to promote increased human consumption prioritized over other uses, with the goal of moving toward higher value products.

(b)(1) All management decisions of, and regulations promulgated by, the department, including, but not limited to, new fishery management plans and amendments to existing fishery management plans, shall be consistent with the policy described in subdivision (a).
(2) State representatives on the Pacific Fishery Management Council and in similar roles shall advocate for policies and management consistent with the policy described in subdivision (a).

(3) The commission shall restrict the development of an emerging fishery, or the significant expansion of an existing fishery, for a forage species, unless it finds both of the following:

(A) There is robust scientific information on the population status and ecosystem role of the forage species.

(B) The development or expansion of the fishery would not have a negative impact on the forage species or the ecological services rendered by the forage species in the larger ecosystem.

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LEGISLATIVE COUNSEL’S DIGEST

Bill No.
as introduced, ______.

General Subject: Marine fisheries: forage species.

Existing law, enacted as part of the Marine Life Management Act of 1998, generally establishes a comprehensive plan for the management of marine life resources. Existing law requires the Department of Fish and Game to develop a fishery management master plan, and provides for the preparation and approval of fishery management plans, which form the primary basis for managing California’s sport and commercial marine fisheries.

This bill would enact the Forage Species Conservation and Management Act of 2011. The act would state the policy of the state with regard to forage species, as defined. The act would require management decisions of, and regulations promulgated by, the department, including, but not limited to, new fishery management plans and amendments to existing fishery management plans to be consistent with that policy. The bill would require state representatives on the Pacific Fishery Management Council
and in similar roles to advocate for policies and management consistent with that policy. The bill would require the Fish and Game Commission to restrict the development of an emerging fishery, or the expansion of an existing fishery, for a forage species, unless it makes specified findings.