

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2712

**Introduced by Assembly Member Plescia
(Principal coauthor: Assembly Member DeSaulnier)**

February 22, 2008

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.

LEGISLATIVE COUNSEL'S DIGEST

AB 2712, as introduced, Plescia. Marine Life Management Act: marine fisheries: forage species.

(1) Existing law, enacted as part of the Marine Life Management Act, generally establishes a comprehensive plan for the management of marine life resources, and utilizes fishery management plans as the primary basis for managing the state's sport and commercial marine fisheries.

This bill would require the Department of Fish and Game, on or before January 1, 2010, to prepare, and submit to the Fish and Game Commission for adoption, a prescribed Forage Species Management Plan that governs the management of forage species within state waters in accordance with specified policy.

The bill would generally prohibit a state fishery for an actively managed forage species that allows for a geographic expansion of an existing fishery beyond those areas fished between the years 2002 and 2007, inclusive, or allows catch levels for an actively managed forage species to exceed levels caught in 2007. The bill, with specified exceptions, would prohibit the state from authorizing any commercial fishery for a forage species in state waters other than an actively managed forage species for which there is an existing commercial

fishery in state waters for any purpose. The bill would generally require the department to limit commercial fishing for forage species to areas of state waters in which fishing for those species took place between the years 2002 and 2007, and would generally prohibit the department from permitting fishing for forage species other than those managed under a certain federal plan in state waters at levels greater than those species were taken in 2007, until the department has performed prescribed optimum yield calculations.

The bill would require the department, on or before January 1, 2010, to prepare and submit to the Fish and Game Commission a plan for additional research on the ecological role of forage species in California's coastal and marine ecosystems and a report that analyzes the ecological and economic effects of harvesting forage species.

(2) Existing law generally makes any violation of fish and game laws, or of any rule, regulation, or order made or adopted pursuant to those laws, a crime.

This bill, by imposing new restrictions on forage species fisheries, the violation of which would be a crime, would impose a state-mandated local program by creating new crimes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 9 (commencing with Section 7095) is
2 added to Part 1.7 of Division 6 of the Fish and Game Code, to
3 read:
4
5 CHAPTER 9. FORAGE SPECIES
6
7 7095. The Legislature finds and declares all of the following:
8 (a) The long-term health of California's coastal and marine
9 ecosystems depends upon the health and viability of forage species.
10 (b) Populations of forage species face many threats, including
11 global climate change, ocean acidification, pollution, and industrial

1 aquaculture that uses wild-caught forage fish reduced into fish
2 meal.

3 (c) Maintaining healthy and abundant populations of forage
4 species will help other marine species cope with, and adapt to,
5 environmental changes.

6 (d) There is not sufficient scientific study in place to support
7 the conclusion that industrial fishing for forage species can take
8 place without reducing the resilience of marine ecosystems or
9 populations of marine predators.

10 (e) It is the state's priority to recognize and protect the role of
11 forage species in California's marine ecosystems and to encourage
12 additional scientific research regarding the role of forage species
13 in the ecosystem.

14 (f) The commission can best ensure that forage species will be
15 managed from an ecosystem perspective.

16 7096. (a) It shall be the policy of the commission to maintain
17 healthy populations of forage species while ensuring the integrity
18 of the ecosystem and habitat upon which these species depend by
19 prioritizing the protection of forage species over extractive uses
20 and by moving management of fisheries targeting forage species
21 away from single-species management and toward an ecosystem
22 approach.

23 (b) The objective of this policy shall be to accomplish all of the
24 following:

25 (1) Maintain healthy populations of forage species.

26 (2) Protect the food web, including the functional role of forage
27 species as prey for fish, birds, and marine mammals.

28 (4) Ensure the long-term health and viability of California's
29 coastal and marine ecosystems through the conservation,
30 sustainable use, and protection of forage species for the benefit of
31 all citizens of the state.

32 (4) Encourage scientific research that focuses on the role of
33 forage species in the ecosystem.

34 (5) Require management entities to consider, evaluate, and
35 prioritize the role of forage species in the marine ecosystem and
36 the need to maintain sufficient abundance of forage species for
37 ecosystem needs.

38 (c) On and after January 1, 2009, the commission shall manage
39 forage species in accordance with the requirements of this part.

40 7097. As used in this chapter:

1 (a) "Actively managed forage species" means those forage
2 species, as of January 1, 2008, managed under existing sport or
3 commercial fishery management measures implemented by the
4 commission or department.

5 (b) "Forage species" means small schooling pelagic fish and
6 invertebrates that serve as an important source of food for other
7 fish species, birds, and marine mammals. Forage species include
8 herring, sardine and anchovy (Clupeiformes), Pacific sandlance
9 (Ammodytidae), smelt (Osmeridae), krill (Euphausiacea), market
10 squid (*Loligo opalescens*), pelagic juvenile salmonids
11 (Salmonidae), pelagic juvenile rockfish (*Sebastes* spp.), jack
12 mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber*
13 *japonicus*), and Pacific saury (*Scomberesocidae*).

14 (c) "Optimum yield" has the same meaning as that term is
15 defined in Section 97.

16 (d) "Plan" means the Forage Species Management Plan adopted
17 in accordance with this chapter.

18 7098. (a) On or before January 1, 2010, the department shall
19 prepare, and submit to the commission for adoption, a Forage
20 Species Management Plan that governs the management of forage
21 species within state waters in accordance with the policy
22 established in this chapter. The plan shall do all of the following:

23 (1) Specify the process and the resources needed to prepare,
24 adopt, and implement existing forage species management for
25 sport and commercial marine fisheries managed by the state.

26 (2) Identify and protect spawning habitat of forage species from
27 any activity that threatens its functions as habitat.

28 (3) Explicitly analyze and consider the role of forage species
29 in the ecosystem by identifying all species in the marine ecosystem
30 that directly or indirectly consume each forage species, and
31 compare ecosystem effects to a baseline in which no forage species
32 were harvested.

33 (4) Identify and describe the locations where fisheries targeting
34 forage species took place between the years 2002 and 2007,
35 inclusive.

36 (5) Include management measures and controls to cap bycatch
37 in fisheries targeting forage species and provide consistent annual
38 reporting, including but not limited to, bycatch estimates.

39 (b) In calculating optimum yield for actively managed forage
40 species, the protection of marine ecosystems shall be prioritized,

1 and optimum yield shall be reduced for ecological factors that shall
2 include ensuring sufficient quantities of forage species to maintain
3 predators and other ecosystem needs, such as community stability
4 and resilience.

5 (c) If there is uncertainty about the status of a stock, the stock
6 is in decline, or the stock condition is poor, the plan shall take a
7 conservative and precautionary management approach.

8 (d) The plan shall be prepared with the advice, assistance, and
9 involvement of participants in the various fisheries and their
10 representatives, marine conservationists, marine scientists, and
11 other interested persons.

12 (e) The department shall review the plan not less than every
13 five years for its effectiveness in achieving ecosystem sustainability
14 goals and for fairness and reasonableness in its interaction with
15 people affected by management in accordance with this chapter.
16 Review shall include the involvement of persons listed in
17 subdivision (d).

18 (f) The plan shall be consistent with Section 7099.

19 (g) The plan modifies, but is not intended to supplant, the
20 existing management plan for market squid as required under
21 Article 9.7 (commencing with Section 8420 of Chapter 2 of Part
22 3).

23 (h) This chapter does not alter Section 8510 regarding the take
24 or landing of krill.

25 7099. There shall be no state fishery for an actively managed
26 forage species that does either of the following:

27 (a) Allows for a geographic expansion of an existing fishery
28 beyond those areas fished between the years 2002 and 2007,
29 inclusive, unless and until scientific information, with peer review
30 by independent experts, indicates fishery activities are not directly
31 or indirectly adversely affecting marine life dependant on forage
32 species in those areas.

33 (b) Allows catch levels for an actively managed forage species
34 to exceed levels caught in 2007 until the department, with peer
35 review by independent experts, determines that increased harvest
36 will not jeopardize ecosystem protection goals and provides
37 optimum yield calculations that explicitly account for the role of
38 targeted forage species in the marine ecosystem and the need to
39 provide a sufficient abundance of forage species for predators and
40 other ecosystem needs.

1 7099.1 Except as specified in Section 7099.2, the state shall
2 not authorize any commercial fishery for a forage species in state
3 waters other than an actively managed forage species for which
4 there is an existing commercial fishery in state waters for any
5 purpose except scientific research pursuant to regulations adopted
6 by the commission.

7 7099.2. (a) Section 7099.1 does not apply to Northern anchovy
8 (*Engraulis mordax*) and jack mackerel (*Trachurus symmetricus*)
9 until January 1, 2010. On and after January 1, 2010, there shall be
10 no direct harvest of those species unless they are managed under
11 the plan.

12 (b) The department shall limit commercial fishing for forage
13 species, other than those specified in subdivision (a), managed
14 under the federal Coastal Pelagic Species Fishery Management
15 Plan (Pacific mackerel and Pacific sardine) to areas of state waters
16 in which fishing for those species took place between the years
17 2002 and 2007, inclusive. The department shall not permit fishing
18 for those species addressed in this subdivision in other areas of
19 state waters until the department determines that scientific
20 information shows conclusively that fishery activities are not
21 directly or indirectly adversely affecting marine life dependent on
22 forage species in those areas.

23 (b) The department shall not permit fishing for forage species
24 other than those specified in subdivision (a), managed under the
25 federal Coastal Pelagic Species Fishery Management Plan in state
26 waters at levels greater than those species were taken in 2007, until
27 the department has performed optimum yield calculations that
28 explicitly account for the role of those forage species in the marine
29 ecosystem and the need to provide a sufficient abundance of forage
30 species for predator species and other ecosystem needs.

31 7099.3. (a) On or before January 1, 2010, the department shall
32 prepare, and submit to the commission both of the following:

33 (1) A plan for additional research on the ecological role of forage
34 species in California's coastal and marine ecosystems. The research
35 plan shall include all of the following:

36 (A) Research on the effects of fisheries removals of forage
37 species on other fish populations, pinnipeds, whales and seabirds.

38 (B) Research on the effects of ocean conditions, including global
39 warming-associated impacts on forage species populations and
40 other associated ecological communities.

1 (C) External peer review.

2 (2) A report that analyzes the ecological and economic effects
3 of harvesting forage species. This analysis shall include external
4 peer review.

5 7099.4. This chapter does not prohibit or otherwise limit the
6 authority of the director or the commission under this part.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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