
**Community Development, Housing &
Tribal Affairs Committee**

HB 1097

Brief Description: Concerning tribal consultation regarding hunting rights and activities.

Sponsors: Representatives Sawyer, Hansen, Fitzgibbon, Stanford, Jinkins, Frame, Gregerson, Santos, Tarleton and Pollet.

Brief Summary of Bill

- Requires the Governor and Fish and Wildlife Commission to consult, upon request, with a tribe on specific Department of Fish and Wildlife actions affecting tribal hunting rights issues.

Hearing Date: 1/25/17

Staff: Sean Flynn (786-7124).

Background:

Tribal Hunting Rights.

The United States negotiated treaties with various Indian tribes within the Washington Territory in the 1850s, before statehood. In the treaties, the Indians ceded their interest in most of the lands in the Territory in exchange for monetary compensation and certain parcels of land which were reserved for the exclusive use of the tribes. The treaties also reserved certain aboriginal rights on lands outside of the designated reservations, including the right to engage in fishing and hunting.

In regards to hunting, courts have recognized that the treaties protect tribal hunting rights on public lands outside of the reservation that were actually occupied or used for hunting by a tribe over an extended period of time. The treaty hunting rights preempts certain state regulation on tribal hunting activities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Tribes may regulate tribal members hunting off-reservation, in accordance with a treaty or other recognized federal right. Some tribal governments have adopted wildlife laws and regulations to govern members' hunting activities both on and off the reservation. Tribal officers enforce these laws and tribal courts have jurisdiction to prosecute offenders.

Fish and Wildlife Commission

The Washington Department of Fish and Wildlife (Department) operates under a legislative mandate to preserve, protect, perpetuate, and manage the state's wildlife. The Fish and Wildlife Commission (Commission) provides the comprehensive goals, policies and objectives that are implemented by the Department through the Department Director. The Commission is comprised of nine members appointed by the Governor to six-year staggered terms. The Commission appoints the Department Director.

The Commission has responsibility for prescribing the time, place, manner, and methods of the hunting, trapping, and fishing seasons, regulating food fish and shellfish, and adopting rules to implement the fish and wildlife laws. The Commission also has final approval authority for tribal, interstate, international, and other department agreements. The Commission meets with the Governor each year to review the basic goals, objectives, and performance of the Department.

In 1998 the Commission issued a policy directing the Director to negotiate with tribes to resolve hunting issues. The Department has entered into several agreements and memoranda of understanding with different tribes regarding co-management of wildlife resources. These agreements range in subject and scope and generally involve the reporting and enforcing of hunting activity on lands where both the tribes and state claim and share jurisdictional authority.

Summary of Bill:

A tribe with federally recognized hunting rights may request a consultation with the Commission and the Governor regarding any specific Department policy, rule, or action that affects tribal hunting rights. The Governor must convene a consultation within 30 days of receiving such a request. The Commission must attend the consultation meeting, or delegate the responsibility to the Director if the requesting tribe agrees to the delegation. The meeting is not required to be open to the public.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.