

SENATE BILL REPORT

HB 1172

As of February 17, 2022

Title: An act relating to recognizing judicially affirmed and treaty-reserved fishing rights and promoting state-tribal cooperative agreements in the management of salmon, trout, and steelhead resources.

Brief Description: Recognizing judicially affirmed and treaty-reserved fishing rights and promoting state-tribal cooperative agreements in the management of salmon, trout, and steelhead resources.

Sponsors: Representatives Lekanoff, Kloba, Ramel, Leavitt, Davis, Dolan, Fitzgibbon, Riccelli, Bateman, Gregerson and Duerr; by request of Attorney General.

Brief History: Passed House: 1/14/22, 96-0.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 3/18/21, 3/25/21 [DP]; 2/17/22.

Brief Summary of Bill

- Repeals statutory provisions related to the management of salmon and steelhead resources established by Initiative 456 passed in 1984.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Staff: Jeff Olsen (786-7428)

Background: Initiative 456 was passed by the voters in 1984. The measure enacted provisions relating to management of salmon and steelhead resources, including:

- declaring that an emergency exists in the management of salmon and steelhead trout resources such that both are in great peril;
- petitioning the United States Congress to immediately make the steelhead trout a national game fish;

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

- declaring that conservation, enhancement, and proper use of the state's natural resources, including but not limited to lands, waters, timber, fish, and game, are responsibilities of the state of Washington and remain within its express domain;
- declaring that "no citizen shall be denied equal access to and use of any resource on the basis of race, sex, origin, cultural heritage, or by and through any treaty based upon the same";
- declaring that "under the Indians Citizens Act of 1924, all Indians became citizens of the United States and subject to the Constitution and laws of the United States and state in which they reside"; and
- declaring that "any special off-reservation legal rights or privileges of Indians established through treaties that are denied to other citizens were terminated by that 1924 enactment, and any denial of rights to any citizen based upon race, sex, origin, cultural heritage, or by and through any treaty based upon the same is unconstitutional."

Summary of Bill: Initiative 456 passed in 1984 is repealed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Regular Session 2022): PRO: This bill would repeal Initiative 456, passed in 1984 and declaring that only the state could manage natural resources, negating the Boldt decision. Washington has come a long ways since then, and this illegal and racist language should be repealed. This language dishonors tribal treaty rights and puts a strain on the current legal framework. The Washington State Department of Fish and Wildlife does not invoke the statute, and repealing the language is the right step. We need to build relationships with the tribes and this rights a wrong of the past. Treaties are nation-to-nation agreements and are the supreme law of the land. The current law is unenforceable under the United States Supreme Court cases of U.S. v. Washington and U.S. v. Oregon, among others. This legislation is an opportunity to correct a historical error and clean up a bad law that no longer applies. Fisheries are co-managed in a government to government relationship.

Persons Testifying: PRO: Representative Debra Lekanoff, Prime Sponsor; Raelene Gold, League of Women Voters of Washington; Asa Washines, Attorney General's Office; Joe Panesko, WA State Attorney General's Office; James Woods, Washington Dept. of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying: No one.