

HOUSE BILL REPORT

HB 1172

As Passed House:

February 25, 2021

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:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 1/27/21, 2/3/21 [DP].

Floor Activity:

Passed House: 2/25/21, 98-0.

Brief Summary of Bill

- Repeals statutory provisions related to the management of salmon and steelhead resources.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

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.

Staff: Robert Hatfield (786-7117).

Background:

Initiative 456 was passed by the voters in 1984. The measure enacted provisions relating to the 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;
- declaring that conservation, enhancement, and proper utilization 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 is repealed in its entirety.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) In 1984 Initiative 456 established a state law which declared that only the state could manage natural resources and that tribal treaty rights were not enforceable. Treaties are nation-to-nation agreements and are the supreme law of the land under United States Supreme Court precedent. 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.

The current language in the law is not just unenforceable but racist.

Initiative 456 was a blatant attempt to undermine court rulings that upheld treaty fishing rights. The statutes are unconstitutional because they attempt to undermine treaty obligations. The voters' pamphlet for the initiative was clear that it would preclude tribal members who belong to treaty tribes from being able to exercise treaty fishing rights.

(Opposed) None.

Persons Testifying: Representative Lekanoff, prime sponsor; Jim Woods, Washington Department of Fish and Wildlife; and Asa Washines and Joe Panesko, Washington State Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.