2005 ASSEMBLY BILL 395

May 2, 2005 – Introduced by Representatives BOYLE, MUSSER, SHERMAN, AINSWORTH, BENEDICT, BERCEAU, BIES, BLACK, COLON, FIELDS, GRIGSBY, HEBL, KESSLER, KRAWCZYK, LEHMAN, MCCORMICK, MOLEPSKE, MURSAU, NELSON, PARISI, POCAN, POPE-ROBERTS, RICHARDS, SCHNEIDER, SEIDEL, SHERIDAN, SHILLING, SINICKI, TOLES, TURNER, VAN ROY, WASSERMAN and YOUNG, cosponsored by Senators COGGS, RISSER, ROBSON, CARPENTER, HANSEN, JAUCH and MILLER. Referred to Committee on State Affairs.

1   AN ACT *to create* 118.134 of the statutes; **relating to:** the use of ethnic names,

2   nicknames, logos, and mascots by school boards, granting rule–making

3   authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination against pupils on a number of grounds, including race and ancestry. This bill provides that a school district resident may object to a school board's use of an ethnic name, nickname, logo, or mascot by filing a complaint with the state superintendent of pupil instruction (state superintendent). The state superintendent must schedule a hearing on the complaint, at which the school board has the burden of proving by clear and convincing evidence that the use of the ethnic name, nickname, logo, or mascot does not promote discrimination, pupil harassment, or stereotyping. If the state superintendent finds in favor of the complainant, the state superintendent must order the school board to terminate its use of the ethnic name, nickname, logo, or mascot within 12 months after issuance of the order. A school board is subject to a forfeiture of not less than $100 nor more than $1,000 for each day that it uses the ethnic name, nickname, logo, or mascot in violation of the order. The decision of the state superintendent is subject to circuit court review.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   SECTION 1. 118.134 of the statutes is created to read:

2   **118.134 Ethnic names, nicknames, logos, and mascots. (1)**
3 Notwithstanding s. 118.13, a resident of the school district may object to a school
4 board's use of an ethnic name, nickname, logo, or mascot by filing a complaint with
5 the state superintendent. The state superintendent shall notify the school board of
6 the receipt of the complaint and schedule a case hearing within 45 days after the
7 complaint is filed.

8   **(2)** At the hearing, the school board has the burden of proving by clear and
9 convincing evidence that the use of the ethnic name, nickname, logo, or mascot does
10 not promote discrimination, pupil harassment, or stereotyping, as defined by the
11 state superintendent by rule.

12   **(3)** The state superintendent shall issue a decision and order within 45 days
13 after the hearing. If the state superintendent finds that the use of the ethnic name,
14 nickname, logo, or mascot does not promote discrimination, pupil harassment, or
15 stereotyping, the state superintendent shall dismiss the complaint. If the state
16 superintendent finds that the use of the ethnic name, nickname, logo, or mascot
17 promotes discrimination, pupil harassment, or stereotyping, the state
18 superintendent shall order the school board to terminate its use of the ethnic name,
19 nickname, logo, or mascot within 12 months after issuance of the order. Decisions
20 of the state superintendent under this subsection are subject to judicial review under
21 ch. 227.

1   **(4)** The state superintendent shall promulgate rules necessary to implement

2   and administer this section.

3   **(5)** Any school board that uses an ethnic name, nickname, logo, or mascot in

4   violation of this section shall forfeit not less than $100 nor more than $1,000. Each

5   day of use of the ethnic name, nickname, logo, or mascot in violation of this section

6   constitutes a separate violation.

7   **(END)**