2013 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB297)

Received:	**10/15/2013**	Received By:	**fknepp**
Wanted:	**As time permits**	Same as LRB:	**s0153**
For:	**Dale Schultz (608) 266-0703**	By/Representing:	**Todd**
May Contact:	**Jim Tenuta**	Drafter:	**fknepp**
		Addl. Drafters:	
Subject:	**Education - miscellaneous**	Extra Copies:	**TKK** **PG**

Submit via email: **YES**
Requester's email: **Sen.Schultz@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

New complaint process for objecting to use of race-based mascot

Instructions:

take out "an annually thereafter"

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	fknepp 10/15/2013	wjackson 10/15/2013		_____ _____	srose 10/15/2013	srose 10/15/2013	

FE Sent For:

<END>

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<END>

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBs0153/1
FFK:jld/eev/wlj:jm

SU154/1

Redraft comp make

SENATE SUBSTITUTE AMENDMENT 2,

TO SENATE BILL 317

A 297

October 15, 2013 – Offered by Senator SCHULTZ.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to amend*** 118.51 (13); and ***to repeal and recreate*** 118.134 of the statutes; **relating to:** race–based nicknames, logos, mascots, and team names, granting rule–making authority, and providing a penalty.

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

SECTION 1. 118.134 of the statutes is repealed and recreated to read:

118.134 Race–based nicknames, logos, mascots, and team names. (1) In this section:

(a) "Council" means the Great Lakes Inter–Tribal Council, Inc.

(b) "Identified nickname, logo, mascot, or team name" means a nickname, logo, mascot, or team name that the state superintendent determines may be race–based under sub. (2).

1 **(2)** No later than June 30, 2014, the state superintendent shall identify each
2 school board that uses a nickname, logo, mascot, or team name that the state
3 superintendent determines may be race–based.

4 **(3)** Except as provided in sub. (6) (a), a school board identified under sub. (2)
5 shall conduct a review process to determine whether the school board's use of an
6 identified nickname, logo, mascot, or team name promotes discrimination,
7 harassment, or stereotyping that includes all of the following:

8 (a) Issuance of a public notice stating that the school board is required to
9 conduct a review process under this subsection and that provides a description,
10 including a timeline, of the review process.

11 (b) An initial comment period during which interested parties may submit to
12 the school board or to the state superintendent evidence related to whether the
13 school board's use of an identified nickname, logo, mascot, or team name promotes
14 discrimination, harassment, or stereotyping.

15 (c) A 2nd comment period during which all evidence received by the school
16 board and the state superintendent under par. (b) is made available to the public for
17 review and during which interested parties may submit additional comments to the
18 school board.

19 **(4)** (a) After completing the review process required under sub. (3), a school
20 board shall review all of the evidence received by the school board and the state
21 superintendent and shall issue a decision on whether the identified nickname, logo,
22 mascot, or team name promotes discrimination, harassment, or stereotyping. If the
23 school board finds that the identified nickname, logo, mascot, or team name
24 promotes discrimination, harassment, or stereotyping, the school board shall

terminate its use of the identified nickname, logo, mascot, or team name within 12 months of the decision.

(b) 1. In this paragraph, "extenuating circumstances" includes circumstances in which the costs of terminating the use of an identified nickname, logo, mascot, or team name pose an undue financial burden on the school district and circumstances in which the work or the requirements for bidding a contract to complete the work required to terminate the use cannot be completed within 12 months after the issuance of the decision under par. (a).

2. a. If, after a decision is issued under par. (a), the school board presents evidence to the state superintendent that extenuating circumstances render termination of the use of the identified nickname, logo, mascot, or team name within 12 months after the issuance of that decision impossible or impracticable, the state superintendent may issue an order to extend the time within which the school board must terminate its use of the identified nickname, logo, mascot, or team name. Except as provided in subd. 2. b., the extension may not exceed 24 months and shall apply only to those portions of the decision and order to which extenuating circumstances apply.

b. The state superintendent may extend the time granted to a school board under subd. 2. a. if the school board presents evidence to the state superintendent that terminating the use of the identified nickname, logo, mascot, or team name may be accomplished through a regularly scheduled maintenance program and that the cost of compliance with that portion of the decision and order exceeds $5,000. The extension granted under this subd. 2. b. may not exceed 96 months and applies only to the termination of the school board's use of the identified nickname, logo, mascot,

1 or team name that will be accomplished through the regularly scheduled
2 maintenance program and that costs more than $5,000.

3 (c) Decisions of the state superintendent under this subsection are subject to
4 judicial review under ch. 227.

5 **(5)** (a) Upon receipt of a petition containing at least a number of signatures of
6 school district electors equal to 10 percent of the school district's membership, as
7 defined in s. 121.004 (5), in the previous school year, or at the request of an entity
8 designated by the council to represent the interests of all of the federally recognized
9 American Indian tribes and bands in this state, the division of hearings and appeals
10 shall schedule a contested case hearing to hear an appeal of a school board decision
11 under sub. (4) no later than 30 days after the petition or request is filed and shall
12 issue a decision and order on the matter no later than 45 days after the hearing. For
13 purposes of hearing an appeal under this paragraph, the division of hearings and
14 appeals shall consider a school board to be an agency, as defined in s. 227.01 (1).

15 (b) Decisions under this subsection are subject to judicial review under ch. 227.

16 **(6)** (a) Notwithstanding sub. (3), the state superintendent may not require a
17 school board to conduct a review process to determine whether the school board's use
18 of an identified nickname, logo, mascot, or team name promotes discrimination,
19 harassment, or stereotyping if the school board has entered into an agreement with
20 an entity designated by the council to represent the interests of all of the federally
21 recognized American Indian tribes and bands in this state under which the entity
22 designated by the council approves the school board's use of the identified nickname,
23 logo, mascot, or team name.

24 (b) Notwithstanding subs. (4) and (5), a school board identified under sub. (2)
25 may continue to use or reinstate the use of an identified nickname, logo, mascot, or

team name if the school board enters into an agreement with an entity designated by council to represent the interests of all of the federally recognized American Indian tribes and bands in this state under which the entity designated by council approves the school board's use of the identified nickname, logo, mascot, or team name.

(7) The state superintendent shall promulgate rules necessary to implement and administer this section, including rules related to all of the following:

(a) A procedure to accept evidence from interested parties related to whether a school board's use of an identified nickname, logo, mascot, or team name promotes discrimination, harassment, or stereotyping.

(b) A procedure for a school board and the state superintendent to exchange and compile all evidence received during an initial comment period under sub. (3) into a complete single exhibit of evidence that is in a uniform format and is accessible to the public before the beginning of the 2nd comment period.

(c) A minimum and maximum time period for the initial and 2nd comment period under sub. (3).

(d) The maximum number of days that a school board may review evidence received during the review process before issuing a decision under sub. (4).

(8) Any school board that uses a race–based nickname, logo, mascot, or team name in violation of sub. (4) shall forfeit not less than $100 nor more than $1,000. Each day of use of the race–based nickname, logo, mascot, or team name in violation of sub. (4) constitutes a separate violation.

(9) (a) No school district is required to comply with a decision and order issued under s. 118.134 (3), 2011 stats., before the effective date of this paragraph .... [LRB

1 inserts date], to terminate the use of a race–based nickname, logo, mascot, or team
2 name.
3 (b) The state superintendent may not assess or collect a forfeiture for a school
4 board's use of a race–based nickname, logo, mascot, or team name that that violates
5 a decision and order issued under s. 118.134 (3), 2011 stats., before the effective date
6 of this paragraph .... [LRB inserts date].
7 **SECTION 2.** 118.51 (13) of the statutes is amended to read:
8 118.51 **(13)** RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS. ~~Except as provided~~
9 ~~in s. 118.134 (3m), a~~ A pupil attending a public school in a nonresident school district
10 under this section has all of the rights and privileges of pupils residing in that school
11 district and is subject to the same rules and regulations as pupils residing in that
12 school district.
13 **SECTION 3. Nonstatutory provisions.**
14 (1) A complaint objecting to the use of a race–based nickname, logo, mascot, or
15 team name filed with the state superintendent of public instruction before the
16 effective date of this subsection for which a decision and order has not been issued
17 under section 118.134 (3), 2011 stats., is void.
18 **(END)**