



2011 ASSEMBLY BILL 26

February 22, 2011 - Introduced by Representatives NASS, JACQUE, AUGUST, LEMAHIEU, SPANBAUER, KNODL, ZIEGELBAUER, PRIDEMORE, KERKMAN, BALLWEG, TIFFANY, STRACHOTA, RIVARD, PETERSEN, BIES, FARROW, MARKLEIN and KAUFERT, cosponsored by Senators LAZICH, KEDZIE, LASEE and LEIBHAM. Referred to Committee on Homeland Security and State Affairs.

1 **AN ACT to repeal** 118.134; and **to amend** 118.51 (13) of the statutes; **relating**
2 **to:** the use of race-based nicknames, logos, mascots, and team names by school
3 boards.

Analysis by the Legislative Reference Bureau

Under current law, a school district resident may object to the use of a race-based nickname, logo, mascot, or team name by the school board of the district by filing a complaint with the state superintendent of public instruction. Upon receipt of a complaint, the state superintendent must notify the school board and must, with certain exceptions, schedule a contested case hearing. At the hearing, the school board must prove by clear and convincing evidence that the use of the race-based nickname, logo, mascot, or team name does not promote discrimination, pupil harassment, or stereotyping, as defined by the state superintendent by rule.

Following the hearing, the state superintendent must issue a written decision and order. The state superintendent must dismiss the complaint unless he or she determines that the school board's use of the race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping. If the state superintendent finds that the school board's use promotes discrimination, pupil harassment, or stereotyping, the state superintendent must order the school board to terminate its use of the nickname, logo, mascot or team name; and the school board must, with limited exceptions, do so within 12 months after the school board receives the order. Failure of a school board to comply with the decision and order subjects the school board to forfeitures. A decision of the state superintendent under the complaint, hearing, and order process is subject to judicial review.

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This bill eliminates the specific right of a school district resident to object to the use of a race-based nickname, logo, mascot, or team name by filing a complaint with the school board and eliminates the right of the school district resident to obtain a contested case hearing on that complaint. The bill eliminates the authority granted to the state superintendent to determine whether the use of a race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping; to order a school board to terminate the use of a race-based nickname, logo, mascot, or team name; and to impose forfeitures upon the school board for failure to comply with the order.

The bill also voids all orders issued by the state superintendent under the complaint, hearing, and order process eliminated by this bill; requires the state superintendent to dismiss with prejudice any complaints pending under the complaint, hearing, and order process eliminated by the bill; and requires a court to dismiss with prejudice any decision and order, issued by the state superintendent under the complaint, hearing, and order process eliminated by the bill, for which judicial review has been sought.

The bill does not eliminate the provision that permits a school district resident to submit a complaint to a school board if the resident believes that he or she has been discriminated against on the basis of a number of factors, including the person's race, national origin, ancestry, or creed. A school district resident who submits such a complaint to a school board may appeal a negative determination made by the school board to the state superintendent.

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 repealed.

2 **SECTION 2.** 118.51 (13) of the statutes is amended to read:

3 118.51 (13) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS. ~~Except as provided~~
4 ~~in s. 118.134 (3m), a~~ A pupil attending a public school in a nonresident school district
5 under this section has all of the rights and privileges of pupils residing in that school
6 district and is subject to the same rules and regulations as pupils residing in that
7 school district.

8 **SECTION 3. Nonstatutory provisions.**

9 (1) ORDERS OF DEPARTMENT OF PUBLIC INSTRUCTION VOID; NOTICE.

