

Date of Hearing: August 13, 2014

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA
Ian C. Calderon, Chair

ACR 168 (V. Manuel Perez and Alejo) – As Introduced: August 4, 2014

AS PROPOSED TO BE AMENDED IN COMMITTEE

SUBJECT: Native Americans: NFL Football: Washington Redskins Mascot: change the name

SUMMARY: Urges the National Football League (NFL) to join with the Legislature and numerous organizations in calling for a name change for the Washington, D.C. NFL team, and calls upon the owners of NFL teams based in California to urge the owner of the Washington, D.C. NFL team and the NFL Commissioner to change the team mascot. Specifically, this resolution makes the following legislative findings:

- 1) California has the highest Native American population in the country with over 700,000 people who identify themselves as Native American, and 109 federally recognized Indian tribes.
- 2) The name used by the Washington, D.C. NFL team is believed by some to be a racial slur and to promote discrimination against Native Americans.
- 3) “Indian” sports brands used by professional teams were born in an era when racism and bigotry were deemed acceptable.
- 4) 50 United States Senators joined together to send a letter to NFL Commissioner Roger Goodell demanding that, “It’s time for the NFL to endorse a name change for the Washington, D.C. football team.”
- 5) Dozens of groups representing millions of Americans have asked NFL players to take a stand against the Washington, D.C. NFL team’s use of the derogatory R-word.
- 6) On June 18, 2014, the United States Patent and Trademark Office (USPTO) canceled the Washington, D.C. NFL team’s federal trademark registration of the name “Washington R_____.” The USPTO ruling deemed the term “disparaging to Native Americans,” and canceled the trademark status of the name. Unless the Washington, D.C. NFL team successfully appeals, the USPTO ruling would mean that the team has no legal ownership over the term; and
- 7) Members of Congress from both sides of the aisle, city councils, top sports icons, civil rights groups, religious groups, prominent journalists, and President Obama have all spoken out against the team’s continued use of the epithet.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) *Author's Statement:* According to the author, "This resolution supports a broader effort to encourage the NFL Washington R_____ to change their team name. The current name is recognized as a derogatory racial slur. Recently, the issue has drawn national attention through the Change the Mascot movement being led by the National Congress of American Indians, the United South and Eastern Tribes and the National Indian Education Association." He concludes, saying, "Living in a society with a history of racial prejudice, we must be even more sensitive to the use of words and phrases derived from generations of hate, bigotry, and violence. Using a racial slur as a mascot is hurtful and degrading to the people it portrays. It is time that we make it known that this affront to the culture and dignity of the Native American people should not be tolerated."
- 2) *Background: Recently the Washington Redskins Lost a Suit Over Federal Trademark Registration of Their Name as the Mascot Was Deemed Disparaging to Native Americans:* The United States Trademark Trial and Appeal Board canceled six federal trademarks held by the Washington Redskins involving the team's name. The board wrote the following in its opinion: "We decide, based on the evidence properly before us, that these registrations must be cancelled because they were disparaging to Native Americans at the respective times they were registered."

The Board ruling, that the Trademark Office should never have registered these trademarks in the first place, was based upon a wide variety of evidence – including dictionary definitions and other reference works, newspaper clippings, movie clips, scholarly articles, expert linguist testimony, and evidence of the historic opposition by Native American groups – to demonstrate that the word 'redskin' is an ethnic slur.

The cancellations are pending and the Redskins plan to appeal the decision. The ruling does not require the team change its name, but it does make it difficult enforce any trademark infringement claims against others printing the name on sweatshirts, apparel, or other team material.

When the case first arose more than 20 years ago, a federal judge in the District of Columbia ruled on appeal in favor of the Washington Redskins and their trademark registrations, finding the evidence 'is insufficient to conclude that during the relevant time periods the trademark at issue disparaged Native Americans...' The court continued, 'The Court concludes that the [Board's] finding that the marks at issue 'may disparage' Native Americans is unsupported by substantial evidence, is logically flawed, and fails to apply the correct legal standard to its own findings of fact'." (CBS Online, *U.S. Patent Office Rules 'Redskins' Name Disparaging, Cancels Trademarks*, June 18, 2014 1:04 PM.)

According to Wikipedia, "Support for continued use of the name has come from the team's owners and a majority of fans, which include some Native Americans. They say that the name honors the achievements and virtues of Native Americans, and that it is not intended in a negative manner. Supporters also assert that a majority of Native Americans themselves are not offended, based upon a public opinion poll in 2004 in which 90% of those who identified as American Indians answered that they were "not bothered" by the name "Redskins" being used for the Washington football team. Some, such as team president Bruce Allen, also point to the use of Redskins by three high school teams, two on reservations that have a majority of Native American students.

A National Annenberg Election Survey of Native Americans on the question of whether the name of the Washington NFL team "Redskins" is offensive found that over 90% of Native Americans were OK with the name, and only 9% found it offensive.

National public opinion polls consistently find that a majority of the general public, ranging from 89% in 1992 to 79% in 2013, support the team's continued use of the name; while at the same time finding that a small majority (56%) say the term itself is racist and should not be used to refer to Native Americans." (Wikipedia, *Washington Redskins Name Controversy*, http://en.wikipedia.org/wiki/Washington_Redskins_name_controversy, accessed August 11, 2014).

- 3) *History of Washington Redskins Name:* According to the attorney for the Washington Redskins in court filings related to the Trademark suit and various news articles, in 1932 the football team was originally created and named the Boston Braves. Teams during this time period generally mirrored their baseball counterparts, as was the case with the New York Giants for example. In their first season the Boston Braves had enormous losses in revenue, and it was decided that changes needed to be made. Along with moving the team to Fenway Park in 1933, the Boston Braves changed their name to the Redskins. One theory for selection of the name Redskins is that it is very similar to Red Socks, the remaining baseball team of Boston. Another theory is that the name was selected to pay honor to its coach – Lone Star Dietz – believed by many to be a Native American. In 1937 the team moved from Boston to Washington DC, taking the name Redskins with it. They have continued to use it to this day.
- 4) *National Collegiate Athletic Association (NCAA) Policy on "Hostile and Abusive" Mascots:* In 2005, the NCAA Executive Committee established a policy prohibiting colleges or universities with hostile or abusive mascots, nicknames or imagery from hosting any NCAA championship competitions. Also in 2005, National Congress of American Indians passed a resolution in support of the NCAA ban on "Indian" mascots, nicknames, and imagery in postseason play, including the namesake exception policy. The NCAA's policy took effect February 1, 2006.

Then-NCAA President Myles Brand stated in support of the policy, "The NCAA objects to institutions using racial/ethnic/national origin references in their intercollegiate athletics programs...As a national association, we believe that mascots, nicknames or images deemed

hostile or abusive in terms of race, ethnicity or national origin should not be visible at the championship events that we control."

Upon announcing the policy, the NCAA's Executive Committee also "strongly suggested that institutions follow the best practices of institutions that do not support the use of Native American mascots or imagery. Model institutions include the University of Iowa and University of Wisconsin, who have practices of not scheduling athletic competitions with schools who use Native American nicknames, imagery or mascots."

The NCAA's namesake exception allows universities to keep their Native American nicknames and imagery if it is based on a particular tribe and have the permission to do so by the respective tribe. In 2005 the NCAA approved a namesake exception process;

"...by which colleges and universities subject to restrictions on the use of Native American mascots, names and imagery at NCAA championships will be reviewed..."

One primary factor that will be considered is if documentation exists that a 'namesake' tribe has formally approved of the use of the mascot, name, and imagery by the institution."

According to information supplied by the author, the Florida State University "Seminoles," the University of Utah "Utes," and the Central Michigan University "Chippewas" were taken off the list after the local namesake tribes expressed support for their respective mascots and logos. The University of North Dakota did not receive an exemption for its Fighting Sioux name after it was determined that there was insufficient namesake support from local tribes. The University dropped the name in 2012 after more than two-thirds of voters in North Dakota voted against a state referendum to keep the name.

No professional sports body has adopted a similar policy.

- 5) *California Has One Namesake Exemption Campus: CSU San Diego Aztec:* In the California State University system, almost 1/3 of the 23 campus system has mascots with some form of human representation; from the Spartans of San Jose and Lumberjacks of Humboldt, to the Pioneers of East Bay and 49ers of Long Beach. However, only one campus mascot invokes Native Americans; San Diego's Aztecs.

San Diego History: In 1925, student leaders of San Diego State University chose the nickname "Aztecs" over such other suggestions as "Balboans" and "Wampus Cats". They felt the terminology was more representative of the history of the area and architecture of the campus, which happened to be located on Montezuma Road, and the selection met with no dissent. In February of 1925, President Hardy gave his formal approval to the "Aztec" nickname and teams adopted that identity within a week. Montezuma, the first Aztec Warrior figure associated with the university, initially appeared at a San Diego State athletic event in the 1941 football season.

In 2000, a number of student groups proposed the university alter its Aztec identity, believing "Monte" the Aztec to be demeaning to Native Americans. During the years 2001-04 there was no mascot, while the University retooled their mascot's image. In February 23, 2004 a new and more culturally correct and distinguished mascot was adopted, complete with costume changes and the modified moniker, "Aztec Warrior." (*Aztec Traditions: How it began*, goaztecs.com, accessed August 12, 2014.)

6) *Prior Related Legislation:*

- a) ACR 164 (Goldberg) of 2006, requested the California Interscholastic Federation to adopt policies that are consistent with the NCAA policies relative to the use of Native American mascots and any other hostile or abusive racial, ethnic, or national origin mascot. ACR 164 was held in the Senate.
- b) AB 13 (Goldberg) of 2005, substantially identical to AB 858, also sought to establish the California Racial Mascots Act, which would have prohibited public schools from using the term Redskins as a school or athletic team name, mascot, or nickname, with certain exceptions. AB 13 was vetoed.
- c) AB 858 (Goldberg) of 2004, sought to establish the California Racial Mascots Act, which would prohibit public schools from using the term Redskins as a school or athletic team name, mascot, or nickname with certain exceptions. AB 858 was vetoed.
- d) AB 2115 (Goldberg) of 2002, would have prohibited public schools, community colleges, the California State University, and the University of California, as specified, from using any one of the following terms as a school or athletic team name, mascot, or nickname: Redskins, Indians, Braves, Chiefs, Apaches, Comanches, any other American Indian tribal name. AB 2115 failed passage on Assembly Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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