

Date of Hearing: April 21, 2015

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Ian Charles Calderon, Chair
AB 30 Alejo – As Amended April 7, 2015

SUBJECT: School or athletic team names: California Racial Mascots Act.

SUMMARY: Establishes the California Racial Mascots Act and prohibits, beginning January 1, 2017, all public schools from using the term "Redskins" for school or athletic team names, mascots, or nicknames Specifically, **this bill:**

- 1) Authorizes a public school to continue to use uniforms or other materials bearing the term "Redskins" as a school or athletic team name, mascot, or nickname that were purchased before January 1, 2017, if all of the following requirements are met:
 - a) The school selects a new school or athletic team name, mascot, or nickname;
 - b) The school refrains from purchasing or acquiring, for the purpose of distribution or sale to pupils or school employees, any uniform that includes or bears the term "Redskins", except that a school using uniforms that bear the term "Redskins" may, prior to January 1, 2019, purchase or acquire a number of uniforms equal up to 20% of the total number of uniforms used by a team or band at the school during the 2016-17 school year for the purpose of replacing damaged or lost uniforms;
 - c) The school refrains from purchasing or acquiring, for the purpose of distribution or sale to pupils or school employees, any yearbook, newspaper, program, or other similar material that includes or bears the prohibited school or athletic team name, mascot, or nickname in its logo or cover title; and,
 - d) The school refrains from purchasing or constructing a marquee, sign, or other new or replacement fixture that includes or bears the prohibited school or athletic team name, mascot, or nickname.
- 2) Specifies that the provisions of this bill may not be waived by the State Board of Education (SBE), except as specified by the bill.
- 3) Finds and declares that the use of racially derogatory or discriminatory school or athletic team names, mascots, or nicknames in California public schools is antithetical to the California school mission of providing an equal education to all, and that certain athletic team names, mascots, and nicknames are discriminatory in singling out the Native American community for the derision to which mascots or nicknames are often subjected.

EXISTING LAW:

- 1) Specifies that it is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the

definition of hate crimes, equal rights and opportunities in the educational institutions of the state. (Education Code (EC) Section 200)

- 2) Requires the SBE to adopt policies directed toward creating a school environment in kindergarten through grade 12 that is free from discriminatory attitudes and practices and acts of hate violence. (EC Section 233)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) *Author's statement of need for legislation.* According to the author, "The use of the R-word as a team mascot began in an era when racism and bigotry were deemed acceptable. Once used to describe Native Americans scalps sold for a bounty, current use of the R-word is widely recognized as a racial slur that promotes discrimination against Native Americans. The Native Congress of American Indians launched a campaign 40 years ago to go against derogatory stereotypes in media and sports. Throughout the country, hundreds of demeaning "Indian" mascots have already been replaced. In 1972, Stanford switched from the Indians to the Cardinals. Other universities and hundreds of high schools have followed suit since then. This past summer, the movement gained momentum when the Yocha DeHe Tribe of Northern California aired a commercial denouncing the Washington mascot during the National Basketball Association (NBA) Finals. The commercial has refocused attention on the issue and helped millions of Americans understand the racial overtones of the team's moniker. With growing support and awareness of the issue, it is time that we act to disallow the use of the R-word by our public schools."
- 2) *Supporters: Redskins is a racist term and should not be used as a school mascot.* "When it comes to various aspects of imagery and representation of Native Americans in popular culture, there are many layers and issues. However, with respect to the broader arena of *Indian mascots*, it is clear that ideas and images connected to *redskins* are rooted in a history of racism towards Native Americans. Many Native people know and understand this, and Native American children should not be subjected to this form of *institutional racism*, nor should they accept it," said Brian A. Baker, Director of Native American Studies at California State University, Sacramento in support of AB 30. The Southern California Indian Center, Inc. confirm this sentiment in their support, sharing, "Living in a society with a history of racial prejudice requires even more sensitivity to the use of words and phrases derived from generations of hate, bigotry, and violence. Once used to describe Native American scalps sold for a bounty, the R-word is no different than racial epithets used against other racial groups. In recent years, the nation has increasingly focused on the offensiveness of the R-word because of its continued use by a professional football franchise. While that franchise is not located in California, our state should cease contributing what is viewed, more and more, as a national problem by ending the use of "Redskins" as a mascot in our public schools."

The American Civil Liberties Union supports for additional reasons, saying, "Public schools must strive to dispel, not perpetuate, racial stereotypes, if our students are to learn and be treated as equals. Moreover, schools' display of Indian mascots frequently infringes on religious freedom by appropriating and denigrating sacred symbols for mass entertainment. Eagle feathers, face paint and sacred dances have religious significance for some tribes. Just

as public schools may not constitutionally endorse religious symbols, they also may not denigrate them; yet schools do this when their official mascots, decorated with sacred feathers on Indian mascots, conduct 'War dances' at school athletic events."

Agua Caliente Band of Cahuilla Indians Tribal Council also urge support, pointing out that, "This country has progressed on so many social fronts over the last several decades, correcting oppressive, legally sanctioned behavior that treated many of our American citizens of color as less than equal partners in their pursuit to live the American Dream. 'Redskins' is a term that harkens back to those darker times. In our view, it is time for California public schools to drop the nickname that is widely viewed as a racial slur by Native Americans."

"There doesn't have to be a racist intent to produce a racist outcome," notes the Yocha Dehe Wintun Nation in their letter to the committee. "Implementation of AB 30 is important to ensure that all children attending school in the State of California are able to do so without fear of discrimination or derision. We recognize that change does not occur overnight and support the phased-in approach outlined in AB 30 which will ensure that the affected schools are not unduly impacted from a financial perspective."

- 3) *Opposition: local control is the best way to address the issue.* The City of Gustine opposes AB 30, based upon their support of the Gustine Unified School District and Gustine High School's "Redskin" mascot. They wrote the committee to say, "At no time in the 80 years that Gustine High School has proudly displayed the Redskins mascot has any disparaging or derogatory use of the Redskin moniker taken place. The respect that the community and the School District have for Native Americans is clear and well documented. We believe that allowing the local control process to play out is the most appropriate way to address this matter."
- 4) *The evolution of the term "Redskins."* The origin of the term "redskin" is a subject of some controversy. Sources including The Washington Post and Wikipedia refer to linguists such as Smithsonian linguistics scholar Ives Goddard, who believe the emergence of the term "redskins" is from the speech of Native Americans themselves and that the origin and use of the term in the late 18th and early 19th century was benign. This view is mirrored by University of Connecticut historian Nancy Shoemaker, who offers the following origin explanation, "By the time the original colonial designations of "Christian" and "Indian" were giving way to 'white,' 'red' and, with the increase in slave traffic, 'black.' 'Color didn't originate with Indian-white relations but with slavery." (Citation omitted).

A different view of the origin of the term is offered by Suzan Shown Harjo and other Native American activists who, for the past 13 years, have sought to cancel trademarks covering the name and logo of the Washington Redskins, based upon their belief that the origin of the term is based in the 1700's when early settlers offered a bounty for the killings of Native American people. "Redskin" was used to describe the bloody scalp that was provided as proof of a killing.

Regardless of the original meaning, the term has come to be associated by some with anti-Native American racism and is considered pejorative by many persons. As sports mascots, the term can encourage highly offensive speech by opposing teams. Chants such as "Kill the Redskins!" or "Scalp the Indians!" are commonly shouted by opponents of teams with Native American team names and mascots. These and negative mascot images may have a harmful

effect on the self-esteem and self-confidence of Native American youth. (In a July 2014 report titled "Missing the Point," Erik Stegman and Victoria Phillips report that suicide is the second leading cause of death for Native American youth between 15 and 24, at a rate that is 2.5 times higher than the national average.)

- 5) *How many schools would be impacted by passage of AB 30?* There are currently four high schools in California that use "Redskins" as a team name and mascot. They include Gustine High School (Merced County), Calaveras High School (Calaveras County), Chowchilla Union High School (Madera County), and Tulare Union High School (Tulare County).

Colusa High School (Colusa County) changed its team name from "Redskins" to "Redhawks" about four years ago. The Los Angeles Unified School District (LAUSD) Board passed a resolution in 1997 finding that the "use of American Indian mascot names and images in schools evokes negative images that become deeply imbedded in the minds of students, depicting American Indians in inaccurate, stereotypic, and often violent manners." The resolution resolved that American Indian mascots and names such as Apaches, Mohicans, Warriors, and Braves would no longer be used. In 1998, a federal judge upheld the LAUSD resolution. According to the LAUSD, all American Indian names have been eliminated.

Nationally, at the high school level, 28 teams in 18 states have dropped the "Redskins" name during the past 25 years as a result of a combination of state legal action, protests from Native American groups, or voluntarily. However, there remain 62 high schools in the United States that continue to use the redskins name. Three of these have a majority of Native American students: Red Mesa High School (Arizona), Wellpinit High School Wellpinit, Washington and Kingston High School Kingston, Oklahoma. (Capital News Service, *The Other Redskins*, retrieved March 30, 2015.)

- 6) *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."

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. California has one namesake exemption campus, CSU San Diego Aztec. No professional sports body has adopted a similar policy.

7) *Prior related legislation.*

- a) ACR 168 (Alejo) of 2014, 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. Adopted.
- b) ACR 164 (Goldberg) of 2006, requested the California Interscholastic Federation to adopt policies that are consistent with the National Collegiate Athletic Association policies relative to the use of Native American mascots and any other hostile or abusive racial, ethnic, or national origin mascot. Adopted.
- c) AB 13 (Goldberg) of 2005, substantially similar to this bill. Vetoed.
- d) AB 858 (Goldberg) of 2004, substantially similar to this bill. Vetoed.
- e) AB 2115 (Goldberg) of 2002, would have prohibited all public schools, community colleges, the California State University and the University of California, to the extent agreed upon by the Board of Regents, from using specified Native American names, including Redskins, Indians, Braves, Chiefs, Apaches, and Comanches, for school or athletic team names, mascots, or nicknames. Failed passage on the Assembly Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

Agua Caliente Band of Cahuilla Indians Tribal Council
American Civil Liberties Union of California
American Indian Community Council
Buena Vista Rancheria, Me-Wuk Indians
California Civil Rights Coalition

California Communities United Institute
California State University, Sacramento, Department of Ethnic Studies
California Teachers Association
Foothill Indian Education Alliance, Inc.
Mexican American Legal Defense and Educational Fund (MALDEF)
Northern California Indian Development Council
Round Valley Indian Tribes
Southern California Indian Center, Inc.
Wilton Rancheria
Yocha Dehe Wintun Nation
Several individuals

Opposition

City of Gustine

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