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1 STATE OF MICHIGAN  
2 DEPARTMENT OF STATE  
3 JOCELYN BENSON, SECRETARY OF STATE

4  
5 BOARD OF STATE CANVASSERS MEETING

6 7710 West Saginaw Highway, Lansing, Michigan

7 Tuesday, January 28, 2020, 2:00 p.m.

8  
9 BOARD: MS. JEANNETTE BRADSHAW - Chair

10 MR. AARON VAN LANGEVELDE - Vice Chair  
MR. NORMAN SHINKLE - Board Member

11 MS. JULIE MATUZAK - Board Member  
MR. JONATHAN BRATER - Elections Staff

12 MS. MELISSA MALERMAN - Elections Staff

13 APPEARANCES:

14 For the State: MS. HEATHER S. MEINGAST (P55439)

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Fair and Equal Michigan, PO Box 10030, Lansing, MI  
48901. The proposed petition summary prepared by  
the Director of Elections on January 24, 2020  
reads:

An initiation of legislation to amend Section  
103 of the Elliott-Larsen Civil Rights Act,  
Public Act 453 of 1976, MCL 37.2103. The  
Elliott-Larsen Civil Rights Act prohibits  
discriminatory practices, policies, and  
customs in the exercise of civil rights.  
It prohibits discrimination in employment,  
housing, public accommodations, public  
service, and education because of sex,  
religion, or eight other reasons. Section  
103 of the Act does not define "sex" or  
"religion." If enacted, the proposed  
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gender identity or expression; and would  
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1 Lansing, Michigan

2 Tuesday, January 28, 2020 - 1:58 p.m.

3 MS. BRADSHAW: We will call this meeting of the  
4 Michigan Board of State Canvassers to order. I want to make  
5 sure that our meeting and Affidavit of Posting was done  
6 correctly?

7 MR. VAN LANGEVELDE: That's you.

8 MR. BRATER: Yes, it was.

9 MS. BRADSHAW: Yes, it was? All right. So now  
10 we'll go on to a consideration of the meeting minutes for  
11 approval from our meeting that was held on December 27th,  
12 2019.

13 MS. MATUZAK: I'll move in support of the minutes  
14 as printed.

15 MR. SHINKLE: Support.

16 MS. BRADSHAW: It's been moved and supported. Is  
17 there any other discussion? Hearing none, all those in  
18 favor say, "Aye."

19 ALL: Aye.

20 MS. BRADSHAW: All right.

21 (Whereupon motion passes at 1:59 p.m.)

22 MS. BRADSHAW: We'll move on to number 3,  
23 consideration of the 100-word summary of the purpose of the  
24 initiative petition sponsored by Fair and Equal Michigan, PO  
25 Box 10030, Lansing, Michigan 48901. The proposed petition

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1 summary prepared by the Director of Elections on January  
2 24th, 2020. And, Director Brater, would you like me to read  
3 this?

4 MR. BRATER: If you would like, or I'm happy to.

5 MS. BRADSHAW: I can do it. I might as well.

6 "An initiation of legislation to amend Section 103  
7 of the Elliott-Larsen Civil Rights Act, Public Act 453  
8 of 1976, MCL 37.2103. The Elliot-Larsen Civil Rights  
9 Act prohibits discriminatory practices, policies, and  
10 customs in the exercise of civil rights. It prohibits  
11 discrimination in employment, housing, public  
12 accommodations, public service, and education because  
13 of sex, religion, or eight other reasons. Section 103  
14 of the Act does not define 'sex' or 'religion.' If  
15 enacted, the proposed initiated law would define 'sex'  
16 as including gender, sexual orientation, and gender  
17 identity or expression; and would define 'religion' as  
18 including the religious beliefs of an individual."

19 MR. BRATER: Would you like me to --

20 MS. BRADSHAW: Yeah, it's your turn.

21 MR. BRATER: Sure. Thank you very much, Members  
22 of the Board. I'm happy to describe the thinking behind  
23 this definition. I know that the sponsors have some  
24 additional alternative language they would like to propose.  
25 The petition would essentially add definitions to the terms

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1 "sex" or "religion" under Section 103 of the Act. Currently  
2 the Act does prohibit discrimination on the basis of sex and  
3 discrimination on the basis of religion, but those terms are  
4 not defined. So what the Act would do is add definitions  
5 that include specifically gender, sexual orientation, gender  
6 identity or expression. For sex and for religion, it would  
7 include the religious beliefs of an individual.

8         The primary purpose of this definition is to  
9 provide context for what -- you know, what parts of the Act  
10 are being amended and how. So that is -- you know, we have  
11 a couple words to spare. It's at 95 words in its current  
12 form and, again, I know that the sponsors have proposed  
13 different wording, which I think they would probably want to  
14 present to the Board.

15         MS. BRADSHAW: That I think we'll go to. I have  
16 two people who wish to speak. And I will start with Steven  
17 Liedel, which I hope I pronounced that correctly. And then  
18 after that I've got Charles Schott.

19         MR. LIEDEL: Thank you, Madam Chair and members of  
20 the Board.

21                 STEVEN LIEDEL

22         MS. BRADSHAW: Steven, if you can spell and --  
23 state and spell your first and last name.

24         MR. LIEDEL: Sure.

25         MS. BRADSHAW: And you are licensed to practice

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1 law in the state of Michigan; correct?

2 MR. LIEDEL: Yes, I am. I'm a member of the State  
3 Bar. Steven Liedel, S-t-e-v-e-n, last name Liedel,  
4 L-i-e-d-e-l, of Dykema, representing Fair and Equal  
5 Michigan. Thank you, Madam Chair and Members of the Board.  
6 We would like to take the opportunity to present an  
7 alternative proposal on the language. We received it --  
8 near the close of business on Friday, the director's  
9 proposed alternative -- or a proposed summary of the purpose  
10 of the petition and that's the charge to the director and  
11 the Board under the statute -- the new statute enacted at  
12 the end of 2018, to review and adopt a summary of the  
13 purpose of the petition.

14 We think the director's summary does a pretty good  
15 job of doing that. We think the proposed alternative better  
16 complies with the statute for a couple of reasons. One,  
17 Elliot-Larsen prohibits discrimination on the basis of ten  
18 factors and the -- or more than ten factors. The director's  
19 summary references "and eight other reasons." We think  
20 that's less than clear. It begs the question, what are  
21 those eight other reasons and the direction in the statute  
22 is for the Board to adopt a clearly written summary, and I  
23 believe it could be more clearly written if that question  
24 can be answered and not raise a question in a summary.

25 If you look at the definition of "clearly" -- and

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1 this is in your letter, on page -- the top of page 3,  
2 "clearly" is an adverb. It means "in such a way as to allow  
3 an easy and accurate perception or interpretation." Well,  
4 there's no easy and accurate perception or interpretation of  
5 other factors or other reasons available anywhere on the  
6 petition. Anyone looking at the petition trying to  
7 understand the petition would have to go elsewhere -- to the  
8 internet or to a law library -- to get the text of the  
9 Elliot-Larsen Civil Rights Act to see what those factors  
10 are.

11 So if you want a clearly written proposal, as the  
12 legislature has mandated in a recent mandate as recently as  
13 2018, we think you could better satisfy that mandate by  
14 answering the question, "What are the other reasons?" and  
15 just spell them all out in the order that the statute  
16 provides. Obviously doing that adds a number of words which  
17 would take the director's proposed statement of 95 words  
18 over the 100 word statutory limit. So we would propose  
19 eliminating some other provisions.

20 And there's actually a markup of the director's  
21 proposed summary included in your letter second to the last  
22 page, the strikes in red and underlined greens -- or  
23 strikeouts and additions in green and double underlined.  
24 And we add, towards the middle of the page, those additional  
25 factors of religion, race, color, national origin, age,

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1 height, weight, familial status or marital status. We then  
2 think it's make some sense to remove some additional words,  
3 words that make the most sense.

4 We also had, you know, some concerns in terms of  
5 compliance with the statute and the obligation to use plain  
6 and ordinary language that the common person would  
7 understand. And there's a clear direction from the  
8 legislature that the 100-word ballot statement need not be  
9 legally precise. Well, the director has done a great job of  
10 being legally precise and as any of us as lawyers would do  
11 in a brief, including a full citation to the section amended  
12 by the proposal. But it's our position that, one, it's not  
13 necessary because it's too legally precise. And, two, it's  
14 arguably not something that's commonly understood,  
15 particularly, you know, the Public Act. Members of the  
16 ordinary public may not understand exactly what a Public Act  
17 is and where to find it. More importantly, the definition  
18 MCL, it's a -- it's an undefined term. Lawyers know that  
19 MCL stands for Michigan Compiled Laws. Most members of the  
20 ordinary public may not make that connection. So we think  
21 you can save some words to add the other factors by making  
22 that change.

23 We also don't think it's necessary to repeat the  
24 full proper name of the Act. You can use it once and then  
25 after that, the -- you can just reference it as "the Act."

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1 It's also, I think, important to note that the Elliot-Larsen  
2 Civil Rights Act itself says that any reference to the  
3 statute can be made by just calling it by its proper name,  
4 "This Act shall be known and may be cited as 'The  
5 Elliot-Larsen Civil Rights Act.'"

6 The last change that we would recommend for better  
7 clarity is in the last sentence. In the last sentence, the  
8 director does a good job of identifying exactly what would  
9 happen if the proposal was enacted. But when we looked at  
10 it, it was less than clear for what purposes. Does that  
11 definition have some applicability outside of  
12 Elliott-Larsen? And as used in the proposal itself, you'll  
13 find that the definitions are, "As used in this Act, the  
14 terms shall mean." And so we thought it would be clearer to  
15 potential signers of the petition if it was clear that the  
16 definitions were for purposes of the Act.

17 So that's essentially the changes that are  
18 proposed in the proposal before you. And we would be happy  
19 to answer any questions with regard to the language I  
20 proposed, alternative language, or the petition itself.

21 MS. BRADSHAW: Is there any questions from the  
22 Board? Norm?

23 MR. SHINKLE: I'm just curious, you're not putting  
24 the public citation in because you're thinking it's too  
25 confusing?

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1 MR. LIEDEL: I don't think that that's confusing  
2 at all. I think that it's, one, not language that ordinary  
3 people use. And the statutory language and the charge in  
4 the statute is pretty clear in MCL 168.482(b)(2)(d), the  
5 summary must be clearly written using words that have common  
6 or everyday meaning to the general public. I don't think  
7 MCL undefined has a common everyday meaning.

8 MR. SHINKLE: So the citation violates the law?

9 MR. LIEDEL: No. I think that you can -- you  
10 could reference the statute without having to -- remember,  
11 this is a summary. I think you'll find very few 100-word  
12 statements that have been used in ballot proposals that ever  
13 include a full citation. And if the public has any interest  
14 in terms of what's the exact citation, it's on the petition.  
15 The full text of the proposal includes the Public Act number  
16 and the cite. I think that's the appropriate place for it.

17 MR. SHINKLE: Does the full text include the eight  
18 reasons?

19 MR. LIEDEL: Does the full text -- no. It  
20 includes a number of the defined terms. If you turn to the  
21 back page of the proposed petition --

22 MR. SHINKLE: I mean, you specified the eight  
23 reasons under your proposed language, but the text doesn't  
24 include the eight reasons?

25 MR. LIEDEL: No, the text only amends Section 103

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1 of the Act.

2 MR. SHINKLE: Oh, I see. So it doesn't include  
3 the whole Act, it has the eight reasons.

4 MR. LIEDEL: Correct; correct.

5 MS. MATUZAK: Correct.

6 MR. LIEDEL: I think I can only speculate the  
7 director's intention. It's difficult in a proposal that  
8 amends just the definition section of a statute to  
9 understand the context sometimes of what's the impact of  
10 those definitions. I think you can even go back to the  
11 ballot language that then Election Director Chris Thomas  
12 proposed for Proposal A of 1994. There's a lot of language  
13 in that 100-word statement that was necessary so folks could  
14 understand the context of what was being done.

15 If you vote "yes" on this, it means that other  
16 laws will or will not take effect but that language was not  
17 in the proposal by itself. So I think that it is  
18 appropriate in the ballot summary as the elections director  
19 has done to provide some context to the person signing the  
20 petition, and so if you looked at the title or you looked at  
21 the broader text of Elliot-Larsen. But in terms of a  
22 citation that could get anyone to the full statute, it's in  
23 the full text of the proposal on the back side of the  
24 petition. And that would be typical with, you know, ballot  
25 statements. These new petition summaries are new; right?

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1 This is a new process. The Board's only dealt with, I  
2 believe, two of them thus far.

3 I guess the other thing I would note too, to  
4 follow up on finishing answering your question, is that the  
5 statute also indicates that the summary -- you know, the  
6 actual proposal itself has to be legally precise, but the  
7 summary is intended -- it need not be legally precise. And  
8 it's a very legally precise citation, so that's just not  
9 necessary. Any average voter gets all the information they  
10 need about the proposal with the revised language that Fair  
11 and Equal Michigan is proposing today.

12 MR. VAN LANGEVELDE: Doesn't that support just  
13 going with the eight other reasons that the director  
14 included in the original summary? I mean --

15 MR. LIEDEL: Oh, the director's summary did not  
16 include --

17 MR. VAN LANGEVELDE: Well, I think he just  
18 referenced eight other reasons. I mean, if we don't need to  
19 be legally precise and the voter can go to the petition and  
20 look at the exact language, why -- or the statute then, I  
21 think -- you know, my guess -- my thought would be then why  
22 not just go with "eight other reasons." Why do we need to  
23 specify them and lay them out?

24 MR. LIEDEL: I think it's not clear. I mean, I'll  
25 refer you back to the definition of "clear." Is it written

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1 in such a way to allow easy and accurate perception or  
2 interpretation; right? And you don't have an easy and  
3 accurate perception of what those factors are and there's no  
4 way to get them or to interpret them from the petition  
5 itself. And they're used throughout the Elliot-Larsen Civil  
6 Rights Act. And so this just takes the text from  
7 Elliot-Larsen Civil Rights Act and puts it all there.

8 And the -- I think the director's proposal has  
9 taken the approach to use, you know, the "eight other  
10 reasons"; right? And we think it's clearer, if you're going  
11 to summarize what the Act does, to include all of it. It  
12 begs the question if you don't address -- address that.

13 MS. BRADSHAW: Does anyone have any further  
14 questions?

15 MR. BRATER: Would you like me to go after --

16 MS. BRADSHAW: If you would like to.

17 MR. BRATER: I mean, I'll just say, you know, of  
18 course what I proposed I thought was clear or I wouldn't  
19 have proposed it. I have -- you know, having heard the  
20 argument and listening to it, I do -- I think that  
21 articulation of each reason, I understand why someone might  
22 think that was more clear just so that, you know, no one has  
23 to make any inference about what the other eight reasons  
24 might be. So I don't have any objection to including them,  
25 for what it's worth. I think that that could make it more

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1 clear.

2 On the statutory citation piece, I don't think  
3 that it is legally required to include the statutory  
4 citation. I do think that there would be room, if the Board  
5 prefers that. I think there would be room to get the MCL in  
6 there, if that is deemed appropriate but I don't think that  
7 it's absolutely required.

8 MS. BRADSHAW: Anything else? Norm?

9 MS. MATUZAK: Do we have another speaker on the  
10 issue?

11 MS. BRADSHAW: We do.

12 MR. BRATER: I think we do, yeah.

13 MR. LIEDEL: If you don't mind, I just would like  
14 to add one thing. Because this is a new section that the  
15 Board is interpreting, if you're making the decision that  
16 it's appropriate to include a full citation in the summary,  
17 you're setting some precedent. And this is a relatively  
18 short one. Many other citations will take up much of your  
19 100-word statement being much longer. Thank you. Thanks  
20 for your time and attention. I really appreciate it.

21 MS. BRADSHAW: We'll call Charles Schott. If you  
22 can, state and spell your last name. And you are not a  
23 licensed attorney; correct?

24 MR. SCHOTT: I'm not an attorney, that is correct,  
25 although I would like to be.



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1 MS. BRADSHAW: We're going to have you swear in  
2 the witness quick -- briefly.

3 REPORTER: Can you raise your right hand?

4 MR. SCHOTT: Yes.

5 REPORTER: Do you solemnly swear or affirm that  
6 the testimony you're about to give will be the whole truth?

7 MR. SCHOTT: I do, so help me God.

8 CHARLES SCHOTT

9 MS. BRADSHAW: And then state and spell your first  
10 and last name. Thanks.

11 MR. SCHOTT: Hello, my name is Charles Schott,  
12 C-h-a-r-l-e-s S-c-h-o-t-t. I'm a citizen of the state of  
13 Michigan and a resident of White Lake, Michigan. I hope to  
14 bring to you my outlook as a citizen and as a potential  
15 voter on this petition language. When I first read about  
16 it, I was at first alarmed and I hope to convince you here  
17 in the next three minutes to vote "no" and to stop this  
18 petition. I'm glad for the originators of Michigan Compiled  
19 Law, for the Elliot-Larsen Civil Rights Act, Public Act 453  
20 of 1976. I was a small child then, and who knew that I  
21 would need it. Who knew at my age that others would have  
22 such struggles.

23 Our country existed for over 200 -- or about 200  
24 years before the 1964 Civil Rights Act. Growing up I heard  
25 about the problems in Detroit and the manifestations of

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1 discrimination exhibited upon various classes of people.  
2 So, me, I'm white, I'm male, I'm not black. These things  
3 are obvious and these things are cannot -- these things I  
4 cannot change. Steve mentioned height and weight were one  
5 of the eight or ten or so classes and to me it's not clear  
6 to a citizen what the eight classes are, as in the petition  
7 language.

8       And also I'm of a certain age. I seem to be  
9 getting older each year, so I'm appreciative again of the  
10 statutory protections for my potential employment and  
11 housing, public accommodations, public service, and  
12 education arenas here in the state of Michigan. So as I  
13 began to think about this and what it would mean in the  
14 future, I merely had to look at some of the national media  
15 and see what would happen as in other cases.

16       So for my history of education, I've seen fire  
17 hoses exhibited against black people of different races.  
18 I've seen the movie "Mississippi Burning" for lack of  
19 implementation of civil rights for others. But here in  
20 Michigan, we're a far stage from that. And as far as being  
21 clear, I think the original language of 1976 for sex is  
22 clear. We were all created male or female. It's one or the  
23 other. I don't think it needs an additional definition.  
24 Unlike the other categories, this creates a special class of  
25 people.

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1           And leading to that, if this were to be enacted,  
2 then that would bring the anvil of government against those  
3 in and adjacent to that special class of people. I don't  
4 see how sexual orientation, gender identity, or gender  
5 expression can be a trait where one possesses and it can't  
6 be changed or they can be discriminated against in those  
7 public housing or public arenas. But what I can see is  
8 based on sex, male or female, I have seen -- I've heard from  
9 other females and other males the troubles that they have  
10 had in employment hiring and other avenues in our daily  
11 life.

12           This petition proposed is a great and extensive  
13 reach for being accepted, loved, and honored in our society  
14 and I applaud that. And it's great for us, for all of us to  
15 live by. Without much trouble, I think we can and we  
16 should. But it should not be on the petition and this is  
17 the wrong avenue to try to get this implemented. So I'm  
18 asking, Madam Chairman and the Board, don't set the  
19 precedent. Don't be the match that ignites this firestorm.

20           This will -- if this passes, and you know it  
21 because you've seen it in other areas around the country,  
22 this will obliterate female sports. We've already seen how  
23 people born male change their gender identity or gender  
24 expression and declare, "I am now female and therefore  
25 eligible to compete in female sports." Female records have

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1 already been broken. Females -- excuse me -- people born  
2 female are now disadvantaged by a new class of people. I  
3 appeal to the Board, when your deadline comes up for  
4 February 6th in 2020, please vote "no" and reject this  
5 petition language.

6 MS. BRADSHAW: Does anyone have any questions on  
7 the Board?

8 MR. SHINKLE: Well, let me ask -- we don't have  
9 the opportunity to reject the substance of the petition  
10 here. We're just here to adopt 100 words of the petition  
11 itself; am I not correct? We can't say, "We don't like the  
12 petition. We're voting 'no,'" can we?

13 MR. GRILL: What you're saying is correct, yes.  
14 The determination of the Board here is not whether or not  
15 the petition is a good idea. It's just whether the language  
16 is clear.

17 MR. SHINKLE: Whether the language is clear;  
18 that's all we're doing is determining if the language  
19 represents the guts of the petition, not whether we like the  
20 idea.

21 MR. SCHOTT: I disagree. As written in the  
22 headline established by the public comments, the top of the  
23 second paragraph says, "If the board approves of the  
24 petition summary as prepared by the director" -- so I'm  
25 asking you not to approve it.

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1 MR. SHINKLE: Well, but the -- but, again, the  
2 petition summary just reflects what's in the petition.

3 MR. SCHOTT: Right.

4 MR. SHINKLE: We can't say we object to the  
5 petition, not here at this meeting or even before February  
6 6th.

7 MR. SCHOTT: I see. Well, then I will --

8 MR. SHINKLE: That's not our job.

9 MR. SCHOTT: So what do you do, then, by February  
10 6th?

11 MR. SHINKLE: We adopt 100 words that reflects  
12 what's in the petition the best we can.

13 MR. SCHOTT: I see. In addition to this being a  
14 bad idea and improperly helping the special class of citizen  
15 it attempts to protect, I think it will harm them and harm  
16 others in the long run. But to --

17 MR. SHINKLE: Well, Charles, let me -- if I can  
18 ask a question? This idea of a guy saying he's a girl and  
19 competing in girls' sports, has that actually happened  
20 somewhere?

21 MR. SCHOTT: Yes, it has.

22 MR. SHINKLE: And do they have a state law that  
23 protected them for doing that?

24 MR. SCHOTT: Yes.

25 MR. SHINKLE: What state was this?

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1 MR. SCHOTT: I think it was Connecticut. But to  
2 further answer your specific question, I consider this  
3 language not clear.

4 MS. BRADSHAW: Okay. Is there any other  
5 questions?

6 MS. MATUZAK: Just another clarification for your  
7 benefit. As Board Member Shinkle has said we're here at  
8 this moment on this agenda item to determine whether this  
9 summary accurately reflects what the petition says. The  
10 next item on the agenda is to approve the petition as to its  
11 form. That has to do with the type size and the spacing and  
12 does it have the right warnings on it? Again, we are not  
13 allowed by the law or courts to say whether we think the  
14 petition is a good idea or not. Rather, our job is protect  
15 the citizens to ensure that a petition they signed is a  
16 legitimate petition. So that's just for your information.

17 MR. SCHOTT: Great. Thank you for that  
18 clarification. And can I ask what body does prevent an  
19 invalid petition from getting on a public ballot?

20 MS. MATUZAK: If the structure and form of the  
21 petition is correct, we are the body that says it -- "You  
22 may go -- you may go and collect signatures." And then if  
23 they have enough signatures, we certify that they have  
24 enough signatures and then it will go on the ballot. In  
25 terms of the content of the petition, I suggest you start a

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1 campaign if you don't like it that says, "Don't sign."  
2 Because if they don't have enough signatures, then it won't  
3 go on the ballot. But this body is not in a position to  
4 judge whether we like petitions or not.

5 MR. SCHOTT: I see. I'll ask that you take that  
6 into consideration.

7 MS. MATUZAK: Okay. Thank you.

8 MS. BRADSHAW: Thank you. Okay. With that --

9 MS. MATUZAK: Madam Chair?

10 MS. BRADSHAW: Yes?

11 MS. MATUZAK: When I first read the director's  
12 proposed language, I got to that point that says "eight  
13 other reasons," and I paused and hesitated and thought,  
14 "What are those eight other reasons? Let's see if I can  
15 remember what they are based on my prior knowledge of  
16 Elliott-Larsen." One of the things I consistently hear from  
17 people over and over again is these ballot proposals are too  
18 confusing. They're misleading. The language is such that  
19 I'm in -- I would always rather fall on the side of real  
20 clarity and I think we need to list the eight reasons  
21 included in the current Elliott-Larsen Civil Rights Act. I  
22 also, however, do think we need to list the citations, so if  
23 there is a way to include both the citations and list the  
24 eight other reasons, I would totally be in favor of the  
25 director rewriting something.

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1 MR. BRATER: I mean, we have space for that, so we  
2 can do that.

3 MR. SHINKLE: The very first line, just throw the  
4 citation in and go from there?

5 MS. MATUZAK: Yeah.

6 MR. SHINKLE: And use their language for the rest.

7 MR. VAN LANGEVELDE: Yeah, Mr. Brater convinced  
8 me. I mean, I'm not going to object to adding those eight  
9 other reasons. I think that's clear and makes sense. I  
10 don't see an issue, however, with including the statutory  
11 cite. I think it does give voters the idea or anybody who's  
12 going to sign the petition about what part we're actually  
13 amending in a more specific manner.

14 MR. BRATER: Can I ask, Melissa, what would you  
15 recommend in terms of the most efficient way to proceed?

16 MS. MALERMAN: Perhaps the Board would be willing  
17 to take a five- or ten-minute recess so that we could  
18 prepare a draft for you to look at, if you don't mind.

19 MS. BRADSHAW: Members of the Board? Take about  
20 a --

21 MR. SHINKLE: Or we could go on to our de minimis  
22 stuff if that's what we all --

23 MS. MATUZAK: Hey, you know --

24 MR. BRATER: Yeah. Okay.

25 MS. BRADSHAW: I actually would like the director



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1 to be here for that, so --

2 MR. BRATER: Okay.

3 MR. SHINKLE: All right.

4 MS. BRADSHAW: Let's take a ten-minute recess.

5 (Off the record)

6 MS. BRADSHAW: Thank you for allowing us a few  
7 minutes of recess. We are back on agenda item number 3,  
8 which I am --

9 MS. MATUZAK: Somebody should read the new  
10 language.

11 MS. BRADSHAW: I will allow our director to read  
12 the new language that he is submitting.

13 MR. BRATER: The new language I am submitting is  
14 as follows:

15 "An initiation of legislation to amend Section 103  
16 of the Elliott-Larsen Civil Rights Act, Public Act 453  
17 of 1976, MCL 37.2103. The Act prohibits discrimination  
18 in employment, housing, public accommodations, public  
19 service and educational institutions because of  
20 religion, race, color, national origin, age, sex,  
21 height, weight, familial status, or marital status.  
22 Section 103 of the Act does not define 'sex' or  
23 'religion.' If enacted, the proposed initiated law  
24 would for purposes of the Act define 'sex' as including  
25 gender, sexual orientation, and gender identity or

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1 expression; and would define 'religion' as including  
2 the religious beliefs of an individual."

3 MS. BRADSHAW: Okay. Does anyone have any other  
4 discussion?

5 MR. SHINKLE: None here.

6 MS. MATUZAK: You going, Norm, or --

7 MR. SHINKLE: I'll move. I move we --

8 MS. BRADSHAW: So we have a --

9 MR. SHINKLE: -- adopt these 94 words as  
10 appropriate for this petition.

11 MS. MATUZAK: I support.

12 MR. SHINKLE: I suppose I should --

13 MS. MATUZAK: Yeah, you really ought to.

14 MS. BRADSHAW: Yeah, probably.

15 MR. SHINKLE: I move the State Board of Canvassers  
16 approve the summary as just read by our director of  
17 elections sponsored by Fair and Equal Michigan as  
18 submitted -- or as read by the director of elections.

19 MS. MATUZAK: Support.

20 MS. BRADSHAW: It's moved and supported. Is there  
21 any further discussion?

22 MR. VAN LANGEVELDE: None here.

23 MS. BRADSHAW: No? All those in favor say "Aye."

24 ALL: Aye.

25 MS. BRADSHAW: So moved.

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1 (Whereupon motion passes at 2:46 p.m.)

2 MS. BRADSHAW: All right. We are now going to  
3 agenda item number 4, consideration of the form of the  
4 initiative petition submitted by Fair and Equal Michigan,  
5 which I believe everyone has a copy of now?

6 MS. MATUZAK: We have the printer's affidavit  
7 confirming size, type size, all of that sort of stuff, the  
8 warnings. I would, however -- this is something we've  
9 discussed before that there is nothing in this printer's  
10 affidavit specifically tying it to this particular petition  
11 form. It used to be when petitions came to us they had  
12 specific titles. Now they less have specific titles, so we  
13 end up with a form that is describing the name of the  
14 proposal as "Initiation of Legislation." We rely on staff  
15 to make sure the two are attached. But in the future can we  
16 please have some identifying mark?

17 MS. MALERMAN: Yes. May I address?

18 MS. MATUZAK: Please.

19 MS. BRADSHAW: Yes, please.

20 MS. MALERMAN: The sponsor of this petition, given  
21 the change that's been made in the wording, will need to  
22 file new proof petitions and also a revised affidavit.

23 MS. MATUZAK: Okay.

24 MS. MALERMAN: So I will point out to them that,  
25 under name of proposal, that they need to refer to the

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1 proposal as "Fair and Equal Michigan" rather than  
2 "Initiation of Legislation."

3 MS. MATUZAK: Thank you.

4 MS. MALERMAN: Thank you.

5 MS. BRADSHAW: I appreciate that. So is there any  
6 changes to form that we need to be aware of in light of  
7 decisions for the Appeals court or -- I'm just asking. I  
8 think this is the first one we've had since the changes of  
9 '18, so --

10 MS. MATUZAK: Well, and they just threw it all out  
11 yesterday.

12 MS. BRADSHAW: Yes, that's the questions that we  
13 have.

14 MS. MALERMAN: Do you want to address PA --

15 MR. GRILL: Do you want to -- yeah, have the --

16 MS. BRADSHAW: Someone on this (indicating) side.

17 MR. GRILL: I don't have anything.

18 MS. MALERMAN: So the court decision yesterday  
19 does not affect the way that the Board treats these. For  
20 the most part, it upheld the Attorney General opinion which  
21 is the standard that we've been operating under since  
22 mid-year last year. So this petition complies with the  
23 Attorney General's opinion and complies with our  
24 instructions and actually is in the same format as the ones  
25 you approved last summer for the Heartbeat Coalition and

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1 Michigan Values Life.

2 MS. BRADSHAW: Actually if I remember right, we  
3 were still trying to figure out what that was going to look  
4 really like.

5 MS. MATUZAK: All right. Ready for a motion? I  
6 move that the Board approve the form of the initiative  
7 petition submitted by Fair and Equal Michigan with the  
8 understanding that the sponsor will file an amended petition  
9 reflecting the summary as approved today and that the  
10 Board's approval does not extend to, number one, the  
11 substance of the proposal which appears on the petition or,  
12 two, the manner in which the proposed language is affixed to  
13 the petition.

14 MR. VAN LANGEVELDE: I'll support.

15 MS. BRADSHAW: It's been moved and supported. Is  
16 there any discussion?

17 MS. MATUZAK: No.

18 MR. SHINKLE: Shouldn't we add that the addition  
19 of the citation in the first line, we're going to add that?

20 MS. MATUZAK: We're going to add -- that whole  
21 part at the top of this petition is going to be substituted  
22 by what we just passed.

23 MR. SHINKLE: I'm talking about if the petition  
24 circulator does not comply with all the requirements.  
25 There's a citation after the word "Michigan" that's going to

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1 be added, which is not reflected in your motion.

2 MS. MALERMAN: Oh, may I? I think I was in a  
3 hurry and have a stray pen mark there. What I was trying to  
4 indicate is that under "initiation of legislation," the very  
5 first sentence that reads, "An initiation of legislation to  
6 amend section 103 of the Elliott-Larsen Civil Rights Act" --  
7 I think an arrow hopefully begins right around where that  
8 period is.

9 MS. BRADSHAW: Yeah.

10 MS. MALERMAN: I was just trying to point out that  
11 that is the place at which the --

12 MS. BRADSHAW: The citation.

13 MR. SHINKLE: Oh, so the first line is not going  
14 to be changed?

15 MS. MALERMAN: Correct. It's the first line  
16 underneath "initiation." Yes, sorry. I'm very sorry for  
17 the confusion.

18 MS. BRADSHAW: Yup, that's okay.

19 MR. SHINKLE: I'm -- you got that arrow right in  
20 that hook line for me. Okay. Very good.

21 MS. MALERMAN: Thank you.

22 MS. BRADSHAW: Okay. So any further discussion on  
23 the motion? None? All those in favor say "Aye."

24 ALL: Aye.

25 MS. BRADSHAW: So moved.

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1 (Whereupon motion passes at 2:51 p.m.)

2 MS. BRADSHAW: Okay. Now let's have Norm's  
3 favorite part, the consideration of proposed de minimis  
4 changes to the ES&S Voting System. These changes  
5 "would update firewall firmware to address a potential  
6 vulnerability, add a second source to the system  
7 firewall for e-transmission of unofficial results, and  
8 upgrade the cradle point router firmware to add an  
9 additional layer of security for wireless  
10 e-transmission of unofficial results."

11 Director Brater?

12 MR. BRATER: These changes have to do essentially  
13 with the -- the firewalls and the software under which the  
14 unofficial results are transmitted using the Zero Tunnel,  
15 which are used in the six ES&S counties that are  
16 transmitting unofficial results. To be clear, you know,  
17 this doesn't change the mechanism by which those unofficial  
18 results are changed. They have been planning to and will  
19 continue to transmit the unofficial results in the same way,  
20 using the Zero Tunnel. This is essentially patching up some  
21 of the software and the firmware that goes around that  
22 process.

23 MS. BRADSHAW: So they've been currently using the  
24 Verizon --

25 MR. BRATER: They have -- Dave, is that correct?

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1 Have they used it previously?

2 MR. TARRANT: Yeah, they got that with their 4G  
3 modems that they're going to put on these right now.

4 MS. BRADSHAW: Okay. So that's the one that we  
5 changed when we made that approval to go to --

6 MR. TARRANT: Correct. They came with the 4G.

7 MS. BRADSHAW: Okay.

8 MS. MATUZAK: The -- that's just one of those  
9 questions. The -- how do you describe it? Under the  
10 purpose page here, .1, there's some more checkmarks down at  
11 the bottom and this little list, "Benefits of Zero Tunnel:  
12 Only authorized personnel can make changes to the Zero  
13 Tunnel configuration." Who is the authorized personnel?

14 MR. TARRANT: That would be the county's staff.

15 MS. MATUZAK: So the county staff?

16 MR. TARRANT: Correct.

17 MS. MATUZAK: The people who deal with the  
18 machines all the time?

19 MR. TARRANT: Yeah, their IT; right, their IT  
20 there, the people who built the infrastructure.

21 MS. MATUZAK: Got it.

22 MS. BRADSHAW: And just so everyone knows, can --  
23 I know you're seated, but just let everyone know who you  
24 are.

25 MR. TARRANT: Dave Tarrant, with the Bureau of



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1 Elections.

2 MS. BRADSHAW: Thank you.

3 MS. MATUZAK: He's the tech guy.

4 MS. BRADSHAW: Well, that covers my question about  
5 the Zero Tunnel, which you said it came with the 4G systems,  
6 so that answers the question I was going to ask about that.

7 MR. TARRANT: Correct, if it's an enhanced  
8 security.

9 MS. BRADSHAW: I don't want to take yours, because  
10 I know we -- I know that it pops up. I mean, it pops up  
11 when we start talking about firewalls. Obviously, one of  
12 the statements that it said in here was, "Unlike using  
13 public internet to transfer encrypted results data to the  
14 ES&S server, the Zero Tunnel configuration does not include  
15 any publicly routable IP addresses." So the question is,  
16 Dominion and Hart, do they have a separate system like this  
17 when they're doing the e-transmissions?

18 MR. TARRANT: Are you talking about the Zero  
19 Tunnel specifically?

20 MS. BRADSHAW: Well, I'm -- so Zero Tunnel is  
21 used -- is it only specifically used for ES&S and does  
22 Dominion and Hart have something similar or is it something  
23 different?

24 MR. TARRANT: They have their own security in  
25 place. The Zero Tunnel, my understanding, is something ES&S

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1 worked with Verizon to come up with using that concept for  
2 their voting system -- their -- for keeping their system.

3 MS. BRADSHAW: Okay. I understand. But it comes  
4 up when you're thinking -- when we're trying to add more  
5 firewalls or more protections on one system, are our other  
6 two systems vulnerable? That's kind of, I think, the --

7 MR. TARRANT: Hopefully the other two will evolve  
8 through the same process and continually provide  
9 enhancements to their systems.

10 MS. BRADSHAW: Any questions?

11 MR. SHINKLE: None here.

12 MS. MATUZAK: Okay.

13 MS. BRADSHAW: Julie, any other questions?

14 MS. MATUZAK: Unh-unh (negative).

15 MS. BRADSHAW: Okay.

16 MS. MATUZAK: I move that the State Board of  
17 Canvassers approve the following de minimis changes for use  
18 with the ES&S EVS 6050 Voting System in the state of  
19 Michigan: One, the update to the 5506x firewall firmware to  
20 version 9.13.1; the addition -- the addition of the 5508x  
21 firewall, and; number three, the upgrade to the latest  
22 release of the Cradle Point firmware to version 7.0.70.

23 MR. SHINKLE: Support.

24 MS. BRADSHAW: Moved and supported. Is there any  
25 further discussion? Hearing none, all those in favor say

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1 "Aye."

2 ALL: Aye.

3 MS. BRADSHAW: So moved.

4 (Whereupon motion passes at 2:55 p.m.)

5 MS. BRADSHAW: All right. Number 6, our agenda  
6 item number 6, recording the results of the special primary  
7 election held on January 7th, 2020 to determine the  
8 democratic and republican primary nominees for the office of  
9 state representative, I believe, in the 34th District.

10 MR. BRATER: So this was a special election that  
11 was necessary because former state representative Sheldon  
12 Neeley successfully ran for mayor of Flint. The governor  
13 set a special primary election date of January 7th to allow  
14 the general election to be held on the date of the  
15 presidential primary on March 10th. And the results, as the  
16 county certified, indicate that Cynthia Neeley won with --  
17 won the primary with a total of 1,158 votes and Adam Ford,  
18 the republican, with 137.

19 MS. BRADSHAW: Any discussion? Questions?

20 MR. SHINKLE: I move that the Board record the  
21 results of the January 7th, 2020 special primary for the  
22 office of state representative 34th District as certified by  
23 the Genesee County board of canvassers on January 9th, 2020.

24 MS. MATUZAK: Support.

25 MS. BRADSHAW: Moved and supported. Is there no

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1 further discussion? All those in favor say "aye."

2 ALL: Aye.

3 MS. BRADSHAW: So moved.

4 (Whereupon motion passes at 2:57 p.m.)

5 MS. BRADSHAW: Do we have any other and further  
6 business presented -- properly presented to the Board?

7 MR. BRATER: On point of privilege, may I --

8 MS. BRADSHAW: Absolutely.

9 MR. BRATER: I would just like to alert the Board  
10 that my colleague, Melissa Malerman, as of yesterday is the  
11 director of the newly created Finance Disclosure and  
12 Compliance Division of the Bureau of Elections. This will  
13 combine some of her existing functions with some of the  
14 functions that Evelyn Quiroga held as the former director of  
15 the Disclosure Division. So fortunately for me especially,  
16 and for all of us, she's going to continue to work with the  
17 Board of State Canvassers.

18 MR. SHINKLE: Oh, good.

19 MS. BRADSHAW: Yay.

20 MS. MATUZAK: Yay.

21 MR. SHINKLE: We need some familiar faces around  
22 here.

23 MR. BRATER: Yes, thankfully. But I just wanted  
24 to recognize that, you know, Melissa, as you all know, is  
25 exceptionally talented and skilled and we are going to

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1 benefit from her continued help. But I just wanted to let  
2 you know of her new role.

3 MS. BRADSHAW: Congratulations.

4 MS. MATUZAK: Congratulations.

5 MR. SHINKLE: Congrats.

6 MS. MALERMAN: Thank you; thank you very much.

7 MS. BRADSHAW: Okay. If there is no further  
8 business -- is anything else? Do we have any updates?  
9 Anything?

10 MR. GRILL: I don't believe so.

11 MS. BRADSHAW: Okay.

12 MR. SHINKLE: No new lawsuits where we're the  
13 defendants?

14 MS. BRADSHAW: No new lawsuits pursuing? Then I  
15 will entertain a motion to adjourn today's meeting.

16 MS. MATUZAK: So moved.

17 MR. VAN LANGEVELDE: Support.

18 MS. BRADSHAW: All right. Thank you very much.  
19 (Proceedings concluded at 2:58 p.m.)

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