



1999 ASSEMBLY BILL 953

March 30, 2000 - Introduced by Representatives MONTGOMERY, GARD, SPILLNER, RHOADES, HUEBSCH, PETTIS, LADWIG, OWENS, JENSEN, HUTCHISON, PETROWSKI, KELSO, HUNDERTMARK, SERATTI, MEYERHOFER, WOOD, PLOUFF, SHERMAN, BALOW, GRONEMUS, MEYER and PLALE. Referred to Joint committee on Information Policy.

1 **AN ACT to repeal** 137.04 (1), 137.06 (1) (e) and 224.30 (2); **to renumber and**
2 **amend** 137.05; **to amend** 137.05 (title); **to repeal and recreate** 137.04 (2);
3 and **to create** 137.01 (6e), 137.04 (1m) and 137.05 (2) of the statutes; **relating**
4 **to:** the use and regulation of electronic signatures, providing an exemption
5 from emergency rule procedures and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, unless prohibited by law, any document prepared by any person that requires a signature or that is given effect with a signature may be signed and given effect with an electronic signature if certain requirements are met. Governmental units may agree to receive signed documents electronically. Notaries public may use electronic signatures to perform their functions. Currently, in order to be valid, an electronic signature must employ a combination of words, letters, symbols or characters attached to or logically associated with a document in such a manner that the identity of the person who originates the document is incontrovertible and the information contained in the document is identical to the information originated by that person. In addition, in order to be valid, an electronic signature must be unique to the person using it; must be capable of verification; must be under the sole control of the person using it; and must be linked to the document to which it is attached or associated, in such a manner that, if the document is altered after the signature is created, the signature is invalidated. Also, any document submitted to the department of financial institutions (DFI) may contain an electronic signature only if the electronic signature conforms with any applicable rules promulgated by DFI.

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This bill deletes the current requirements that an electronic signature must employ a combination of words, letters, symbols or characters that is attached to or logically associated with a document and that is used by a person for the purpose of authentication of the document; that the identity of the person who signs a document using an electronic signature must be incontrovertible; and that the information contained in the document must be identical to the information originated by that person. The bill retains all of the other current requirements concerning the form and validity of electronic signatures. Under the bill, an electronic signature means an electronic sound, symbol or process that is attached to or logically associated with a document and that is executed or adopted by a person with intent to sign the document. The bill also deletes the current requirement that an electronic signature submitted to DFI must comply with applicable DFI rules. Rather, under the bill, the department of administration (DOA) must promulgate rules concerning the use of electronic signatures by all governmental units, including DFI.

Under the bill, the secretary of state and DOA are required to jointly promulgate rules that create requirements that a notary public must follow when using an electronic signature. The bill provides that the electronic signature of a notary public is not valid unless the signature is used in compliance with these requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 137.01 (6e) of the statutes is created to read:

2 137.01 **(6e)** ELECTRONIC SIGNATURES. The secretary of state and department of
3 administration shall jointly promulgate rules establishing requirements that a
4 notary public must satisfy in order to use an electronic signature, as defined in s.
5 137.04 (2), for any attestation. The joint rules shall be numbered as rules of each
6 agency in the Wisconsin Administrative Code. The electronic signature of a notary
7 public is not valid for official acts unless the signature is used in compliance with
8 those requirements.

9 **SECTION 2.** 137.04 (1) of the statutes is repealed.

10 **SECTION 3.** 137.04 (1m) of the statutes is created to read:

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1 137.04 (1m) "Document" means information that is inscribed on a tangible
2 medium or that is stored in an electronic or other medium and that is retrievable in
3 a perceivable form.

4 **SECTION 4.** 137.04 (2) of the statutes is repealed and recreated to read:

5 137.04 (2) "Electronic signature" means an electronic sound, symbol or process
6 that is attached to or logically associated with a document and that is executed or
7 adopted by a person with intent to sign the document.

8 **SECTION 5.** 137.05 (title) of the statutes is amended to read:

9 **137.05 (title) Submission of ~~written documents~~ to governmental units.**

10 **SECTION 6.** 137.05 of the statutes is renumbered 137.05 (1) and amended to
11 read:

12 137.05 (1) ~~Unless otherwise prohibited by law, any document that is required~~
13 ~~by law to be submitted in writing to a governmental unit and that requires a written~~
14 ~~signature may be submitted by transforming the document into electronic format,~~
15 ~~but~~ A document that is signed or given effect with an electronic signature may be
16 submitted to a governmental unit only with the consent of the governmental unit
17 that is to receive the document.

18 **SECTION 7.** 137.05 (2) of the statutes is created to read:

19 137.05 (2) The department of administration shall promulgate rules
20 concerning the use of electronic signatures by governmental units. With respect to
21 use of electronic signatures by notaries public, the rules shall be consistent with rules
22 promulgated under s. 137.01 (6e).

23 **SECTION 8.** 137.06 (1) (e) of the statutes is repealed.

24 **SECTION 9.** 224.30 (2) of the statutes is repealed.

25 **SECTION 10. Nonstatutory provisions.**

ASSEMBLY BILL 953**SECTION 10**

1 (1) USE OF ELECTRONIC SIGNATURES BY GOVERNMENTAL UNITS. Using the procedure
2 under section 227.24 of the statutes, the department of administration may
3 promulgate emergency rules under section 137.05 (2) of the statutes, as created by
4 this act, for the period before the effective date of permanent rules initially
5 promulgated under section 137.05 (2) of the statutes, as created by this act, but not
6 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
7 Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department
8 is not required to provide evidence that promulgating a rule under this subsection
9 as an emergency rule is necessary for the preservation of the public peace, health,
10 safety or welfare and is not required to provide a finding of emergency for a rule
11 promulgated under this subsection.

12 (2) USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC. The secretary of state
13 and department of administration shall promulgate initial rules under section
14 137.01 (6e) of the statutes, as created by this act, to become effective no later than
15 January 1, 2002.

SECTION 11. Effective date.

16 (1) This act takes effect on the first day of the 4th month beginning after
17 publication.
18

19 (END)