

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB267)

Received: 02/16/2000

Received By: kuesejt

Wanted: Soon

Identical to LRB:

For: Jon Erpenbach ~~7-7521~~ *6-6670*

By/Representing: Dan Schmidt - LCS

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact:

Alt. Drafters: **rmarchan
nelsorp1**

Subject: **State Government - miscellaneous
Fin. Inst. - miscellaneous**

Extra Copies: **Dan Schmidt - LCS**

Pre Topic:

No specific pre topic given

Topic:

SSA to AB-267

Instructions:

Per attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 02/22/2000	chanaman 02/22/2000		_____			
/1	lrb_docadmin 02/22/2000		kfollet 02/22/2000	_____	lrb_docadmin 02/22/2000	lrb_docadmin 02/22/2000	
/2	kuesejt 02/22/2000	chanaman 02/22/2000	kfollet 02/22/2000	_____	lrb_docadmin 02/23/2000	lrb_docadmin 02/23/2000	

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/1 /2	kuesejt 2/22	cmA 2/22		kfollet 02/22/2000	lrb_docadmin 02/22/2000	lrb_docadmin 02/22/2000	
FE Sent For:		1/2	1cjt 2/22	1cjt/self 2/22			<END>

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1?	kuesejt	cm tt /1	kjf 2/22	kjf/jf 2/22			
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FE Sent For:

2/22

<END>

Kuesel, Jeffery

From: Schmidt, Dan
Sent: Wednesday, February 16, 2000 12:15 PM
To: Kuesel, Jeffery
Cc: Sweet, Richard
Subject: Senate Sub Amendment to AB 267

Jeff:

Senator Erpenbach would like to make the following changes to AB 267 (LRB-1729/3) in the form of a Senate substitute amendment:

- 1) Pg. 2, Ln. 3-8 -- Change the definition of Electronic signature to match the UETA definition. UETA states, '**Electronic Signature' means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.**
- 2) Pg. 2, Ln. 9 -- Insert the UETA definition of a record for the purposes of this section. Ueta states, '**Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.**
- 3) Pg. 3, Ln. 4-15 -- Eliminate lines 4-15 from the bill and repeal sections 137.06 and 224.30, Stats., instead.
- 4) Pg. 3, Ln. 4 -- Insert the joint DOA/Sec. of State rule making authority for notaries public as created in AA 1 to AB 267 (LRBa1031/1).
- 5) Pg. 4, Ln. 4 & 5 -- delete "on July 1, 1999, or" (Ln. 4) and ", whichever is later" (Ln. 5).

If you have any questions regarding this amendment, please give me a call. Also, please send me a copy of the amendment in addition to Erpenbach. Thanks.

Daniel W. Schmidt

Wisconsin Legislative Council Staff
One East Main Street, Suite 401
P.O. Box 2536
Madison, WI 53701-2536
(608) 267-7251
dan.schmidt@legis.state.wi.us

Kuesel, Jeffery

From: Schmidt, Dan
Sent: Friday, February 18, 2000 11:20 AM
To: Kuesel, Jeffery
Cc: Sweet, Richard
Subject: Changes to Senate Sub to AB 267

Jeff:

Please make the following changes to the Senate substitute amendment to AB 267 requested by Sen. Erpenbach on Wednesday:

1) Do not repeal Section 137.06 (1) (a) through (d) or 137.06 (2) and eliminate Pg. 3, lines 4-15 of AB 267 as previously requested. Instead;

2) Eliminate Pg. 3, lines 4-14 of AB 267 and repeal Section 137.06 (1) (e) of the current statutes.

The intent of this change is to keep the current standard for an electronic signature the same until some form of UETA is passed. DOA felt this was necessary for consumer protection purposes.

I apologize for any inconvenience this may cause. If you have any questions regarding these alterations, please give me a call. Thanks.

Daniel W. Schmidt

Wisconsin Legislative Council Staff
One East Main Street, Suite 401
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(608) 267-7251
dan.schmidt@legis.state.wi.us

(DRAFT)

TODAY

SENATE SUBSTITUTE AMEND -

+ RPN/cmt
computer
refusal to
forward
draft

TO 1999 ASSEMBLY BILL 267

April 9, 1999 - Introduced by Representatives HUTCHISON, JENSEN, HUEBSCH, F. LASEE, MEYER, SYKORA, KELSO, OWENS, MUSSER, ALBERS, KAUFERT, OLSEN, MONTGOMERY and VRAKAS, cosponsored by Senator RUDE. Referred to Committee on Information Policy.

(regenerate)

1 AN ACT *to repeal* 137.04 (1), 137.06 (1) (a) to (e) and 224.30; *to renumber and*
2 *amend* 137.05 and 137.06 (1) (intro.); *to amend* 137.04 (2), 137.05 (title) and
3 137.06 (2); and *to create* 137.05 (2) of the statutes; **relating to:** the use and
4 regulation of electronic signatures, providing an exemption from emergency
5 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; 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; and, for any document submitted to the department of financial institutions, must conform to rules promulgated by that department.

ASSEMBLY BILL 267

This bill deletes all of the current requirements concerning the form and validity of electronic signatures. Under the bill, an electronic signature may employ any identifier or authentication technique. This bill also ~~deletes~~ the requirement that the department of financial institutions promulgate rules concerning electronic signatures. Rather, under this bill, the department of administration must promulgate rules concerning the use of electronic signatures by governmental units. 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:

SECTION 1. 137.04 (1) of the statutes is repealed.

SECTION 2. 137.04 (2) of the statutes is amended to read:

137.04 (2) "Electronic signature" means any combination of words, letters, symbols or characters, ~~or any identifier or authentication technique~~, that is attached to or logically associated with a document that is created in or transformed into an electronic record format and used by a person for the purpose of authenticating with the intent to authenticate a document that has been is created in or transformed into an electronic format.

SECTION 3. 137.05 (title) of the statutes is amended to read:

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

SECTION 4. 137.05 of the statutes is renumbered 137.05 (1) and amended to read:

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

INS
2-0
INS
2-1

ASSEMBLY BILL 267

1 **SECTION 5.** 137.05 (2) of the statutes is created to read:

2 137.05 (2) The department of administration shall promulgate rules
3 concerning the use of electronic signatures by governmental units. *(INS 3-3)*

4 ~~**SECTION 6.** 137.06 (1) (intro.) of the statutes is renumbered 137.06 (1) and~~
5 ~~amended to read:~~

6 ~~137.06 (1) Unless otherwise prohibited by law, any document that requires a~~
7 ~~manual, facsimile or other form of signature or that is given effect with a manual,~~
8 ~~facsimile or other form of signature may be signed or given effect with an electronic~~
9 ~~signature if the electronic signature meets all of the following requirements:~~

10 **SECTION 7.** 137.06 (1) ~~(a)(1)~~ (e) of the statutes ~~are~~ ^{is} repealed.

11 **SECTION 8.** 137.06 (2) of the statutes is amended to read:

12 137.06 (2) An electronic signature ~~that satisfies all of the requirements~~
13 ~~specified in sub. (1)~~ has the same force and effect as a manual, facsimile or other form
14 of signature.

15 **SECTION 9.** 224.30 of the statutes ^{is} repealed.

16 **SECTION 10. Nonstatutory provisions.**

17 ^(INS 3-17) (1) Using the procedure under section 227.24 of the statutes, the department
18 of administration may promulgate emergency rules under section 137.05 (2) of the
19 statutes, as created by this act, for the period before the effective date of permanent
20 rules initially promulgated under section 137.05 (2) of the statutes, as created by this
21 act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the
22 statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the
23 department is not required to provide evidence that promulgating a rule under this
24 subsection as an emergency rule is necessary for the preservation of the public peace,

ASSEMBLY BILL 267

SECTION 10

1 health, safety or welfare and is not required to provide a finding of emergency for a
2 rule promulgated under this subsection.

3 **SECTION 11. Effective date.**

4 (1) This act takes effect on ~~July 1, 1999,~~ *July 1, 1999,* or on the first day of the 4th month
5 beginning after publication, *whichever is later.*

6 (END)

JWS
4-2

**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 267**

November 10, 1999 - Offered by COMMITTEE ON INFORMATION POLICY.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 1: before that line insert:

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

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

FWS
2-0

(END OF INSERT)

11 ~~**2.** Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1m".~~

1

3. Page 3, line 3: after "units." insert ^{NOA} "With respect to use of electronic

2

signatures by notaries public, the rules shall be consistent with rules promulgated

JWS
3-33

3

under s. 137.01 (6e).

4

4. Page 3, line 17: after "(1)" insert ^{NOA} "USE OF ELECTRONIC SIGNATURES BY

JWS
3-17

5

GOVERNMENTAL UNITS."

6

5. Page 4, line 2: after that line insert:

7

^(P) "(2) USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC. The secretary of state

8

and department of administration shall promulgate initial rules under section

9

137.01 (6e) of the statutes, as created by this act, to become effective no later than

JWS
4-2

10

January 1, 2002.

11

(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0312/lins
JTK.....

INSERT 2-1:

no Bond

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

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

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

137.04 (2) "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.

(END
OF
INSERT)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0312/1dn

JTK.....

cn it

⑤
In implementing your instructions, I have changed the word “record” to “document”. I did this for several reasons. I think the latter term is broader and it would more likely be consistent with your intent to utilize the broader term. I found the concept of signing a record to be awkward; a more likely scenario would entail signing a document, which may or may not then be maintained as a record. Also, current law utilizes the term “document” [see s. 137.05 and 137.06, stats.]. In addition, there are already statutory definitions of “record” and “public record” in ss. 19.32 (2) and 16.61 (2) (b), stats., that are used, I think, without exception in connection with documents that are maintained, and I did not want to confuse this usage by, in effect, suggesting that these terms apply to documents that are not maintained.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0312/1dn
JTK:cmh:kjf

February 22, 2000

In implementing your instructions, I have changed the word "record" to "document". I did this for several reasons. I think the latter term is broader and it would more likely be consistent with your intent to utilize the broader term. I found the concept of signing a record to be awkward; a more likely scenario would entail signing a document, which may or may not then be maintained as a record. Also, current law utilizes the term "document" [see ss. 137.05 and 137.06, stats.]. In addition, there are already statutory definitions of "record" and "public record" in ss. 19.32 (2) and 16.61 (2) (b), stats., that are used, I think, without exception in connection with documents that are maintained, and I did not want to confuse this usage by, in effect, suggesting that these terms apply to documents that are not maintained.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0312/2 ✓

JTK/RJM/RPN:cmh:kjf

wanted wed 2/23 8:30 AM

**SENATE SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 267**

(repeal)

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

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

7 **SECTION 1.** 137.01 (6e) of the statutes is created to read:
8 137.01 (6e) ELECTRONIC SIGNATURES. The secretary of state and department of
9 administration shall jointly promulgate rules establishing requirements that a
10 notary public must satisfy in order to use an electronic signature, as defined in s.
11 137.04 (2), for any attestation. The joint rules shall be numbered as rules of each
12 agency in the Wisconsin Administrative Code. The electronic signature of a notary

1 public is not valid for official acts unless the signature is used in compliance with
2 those requirements.

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

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

5 137.04 (1m) "Document" means information that is inscribed on a tangible
6 medium or that is stored in an electronic or other medium and that is retrievable in
7 a perceivable form.

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

9 137.04 (2) "Electronic signature" means an electronic sound, symbol or process
10 that is attached to or logically associated with a document and that is executed or
11 adopted by a person with intent to sign the document.

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

13 **137.05 (title) Submission of written documents to governmental units.**

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

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

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

23 137.05 (2) The department of administration shall promulgate rules
24 concerning the use of electronic signatures by governmental units. With respect to

1 use of electronic signatures by notaries public, the rules shall be consistent with rules
2 promulgated under s. 137.01 (6e).

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

4 **SECTION 9.** 137.06 (2) of the statutes is amended to read:

5 137.06 (2) An electronic signature that satisfies all of the requirements
6 specified in sub. (1) has the same force and effect as a manual, facsimile or other form
7 of signature.

8 **SECTION 10.** 224.30 of the statutes is repealed.

9 **SECTION 11. Nonstatutory provisions.**

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

21 (2) USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC. The secretary of state
22 and department of administration shall promulgate initial rules under section
23 137.01 (6e) of the statutes, as created by this act, to become effective no later than
24 January 1, 2002.

25 **SECTION 12. Effective date.**

