

1999 DRAFTING REQUEST

Bill

Received: 03/28/2000

Received By: kuesejt

Wanted: 03/29/2000

Identical to LRB:

For: Phil Montgomery (608) 266-5840

By/Representing: John Flynn

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact:

Alt. Drafters: rmarchan
nelsorpl

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

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Use and regulation of electronic signatures

Instructions:

Per SSA1 to AB-267.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
I?	kuesejt 03/28/2000	wjackson 03/28/2000		_____			State
/1			kfollet 03/28/2000	_____	lrb-docadmin 03/29/2000	lrb-docadmin 03/29/2000	

FE Sent For:

<END>

u/v
3/30/00

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Jacketed → per JTK

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DNOTE

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1?/1	kuesejt 3/28 1		kjf 3/28	kjf/ljf 3/28			

FE Sent For:

<END>

(DN87E)

1999 - 2000 LEGISLATURE

LRBs0312/2

JTK/RJM/RPN:cmh:kjf

-4841/1

WJ

wanted by wed - 1/29 - 9AM

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

~~March 14, 2000. Offered by COMMITTEE ON PRIVACY, ELECTRONIC COMMERCE AND FINANCIAL INSTITUTIONS.~~

(regenerate)

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

TWISSET
ANALYSTS

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

6 SECTION 1. 137.01 (6e) of the statutes is created to read:
7 137.01 (6e) ELECTRONIC SIGNATURES. The secretary of state and department of
8 administration shall jointly promulgate rules establishing requirements that a
9 notary public must satisfy in order to use an electronic signature, as defined in s.
10 137.04 (2), for any attestation. The joint rules shall be numbered as rules of each
11 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 provided 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. 224.30⁽²⁾ of the statutes is repealed.

5 SECTION 10. **Nonstatutory provisions.**

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

17 (2) USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC. The secretary of state
18 and department of administration shall promulgate initial rules under section
19 137.01 (6e) of the statutes, as created by this act, to become effective no later than
20 January 1, 2002.

21 SECTION 11. **Effective date.**

22 (1) This act takes effect on the first day of the 4th month beginning after
23 publication

24 (END)

IN SENATE ANALYSIS

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.

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.

ant

*Mrs A.S.
to insert
analysis*

ASSEMBLY BILL 267

This bill ~~deletes~~ ^{other} all of the ^{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~~ ^{the} 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.

FWSB
to insert analysis
FWS
C
to insert analysis

current

CDIA

including DFI

all

^{current} deletes the 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

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.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4841/linsRM
RJM:.....

INSERT ANALYSIS

NOA

WISA

only

Also, any document submitted to the department of financial institutions (DFI) may contain an electronic signature, if the electronic signature conforms with any applicable rules promulgated by the department of financial institutions.

DFI

INSERT ANALYSIS

FWS B. NOT

~~In addition, this bill deletes the requirement that an electronic signature submitted to DFI must comply with applicable DFI rules. Rather, the electronic signature must comply with the rules promulgated by the department of administration.~~

~~INSERT~~

~~SECTION 1-224-30(2) of the statutes is repealed.~~

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4841/?insrn
JTK/RJM/RPN.....

INSC

~~insert to analysis, after using current law analysis from AB267.~~ ^{DOA}
Under the bill, the secretary of state and department of administration 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.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4841/1dnRM

RJM:/:.....

WJ

This bill is different from **SSA1** to AB-267 in one respect. The SSA repeals all of s. 224.30, stats. This bill repeals s. 224.30 (2), stats., which deals with electronic signatures in a manner that is otherwise inconsistent with the bill. The budget ~~bill~~^{act} created s. 224.30 (3), stats., which permits the department of financial institution's to charge a fee for allowing access to its computer ~~data~~^{base}s, computer networks and ~~is~~^{was} computer systems. Because this provision is unrelated to electronic signatures, it ~~is~~^{is} my judgment that you probably do not intend its repeal. If I am incorrect, please call and I will redraft the bill to repeal all of s. 224.30, stats.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

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

LRB-4841/1dn
RJM:wlj:kjf

March 28, 2000

This bill is different from SSA1 to AB-267 in one respect. The SSA repeals all of s. 224.30, stats. This bill repeals s. 224.30 (2), stats., which deals with electronic signatures in a manner that is otherwise inconsistent with the bill. The budget act created s. 224.30 (3), stats., which permits the department of financial institutions to charge a fee for allowing access to its computer data bases, computer networks and computer systems. Because this provision is unrelated to electronic signatures, it was my judgment that you probably do not intend its repeal. If I am incorrect, please call and I will redraft the bill to repeal all of s. 224.30, stats.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 03/29/2000

To: Representative Montgomery

Relating to LRB drafting number: LRB-4841

Topic

Use and regulation of electronic signatures

Subject(s)

State Government - miscellaneous, Fin. Inst. - miscellaneous

1. **JACKET** the draft for introduction

in the ~~Senate~~ or the ~~Assembly~~ (check only one). Only the requester under whose name the

drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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