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# RON TUSLER

STATE REPRESENTATIVE • 3<sup>rd</sup> ASSEMBLY DISTRICT

**Testimony Before the  
Assembly Committee on Judiciary  
on  
Assembly Bill 566  
October 26, 2017**

Mr. Chairman and members of the committee, thank you for the opportunity for a public hearing on AB 566. This bill is straightforward and codifies common practice by many attorneys.

Current law allows service of pleadings and other documents personally, through mail or fax, but not e-mail.<sup>1</sup> Email is commonly used by attorneys to communicate with clients and other attorneys. Electronic service is allowed under the Federal Rules of Civil Procedure.<sup>2</sup> Numerous states, including Tennessee, Florida, South Dakota, Illinois, Michigan and Oregon already allow electronic service. In Wisconsin, the law lags behind technology.

Under this proposal electronic service is *completely voluntary*; attorneys are not required to consent to electronic service. Opting-in requires written consent by an attorney, or party if appropriate. Electronic service is complete upon transmission, except if the sender receives notification or indication that the message was not delivered. Further, the bill does not allow electronic service for initial pleadings,<sup>3</sup> which still must be served via personal service.<sup>4</sup>

Thank you for your time. I am open to answering any questions you may have.

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<sup>1</sup> Wis. Stat. 801.14(2).

<sup>2</sup> Fed. R. Civ. Pro. 5(b)(2)(E) ("sending it by electronic means if the person consented in writing—in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served").

<sup>3</sup> See *Sacotte v. Ideal-Werk Krug & Priester Maschinen-Fabrik*, 121 Wis.2d 401, 408 (1984) ("Section 801.14 (2), is applicable only after the action has been commenced and an attorney has appeared in the action on behalf of a party.").

<sup>4</sup> Wis. Stat. 801.13(1).



CHRIS TAYLOR

STATE REPRESENTATIVE ♦ 76th ASSEMBLY DISTRICT

**Testimony of Rep. Chris Taylor  
Assembly Bill 566**

October 26, 2017

Chairman Ott & Members of the Judiciary Committee:

Thank you for holding a public hearing on Assembly Bill 566. I regret that I cannot be at the hearing in person because of a death in my family, but appreciate the opportunity to submit written testimony.

AB 566 simply updates the mechanism by which parties to a legal action can serve pleadings and other documents. Under current law, hand-delivery, mail, and fax are the sole means for serving pleadings and other documents. AB 566 adds email to the list of ways certain documents can be served. Pleadings and other documents that would be able to be served electronically would include the complaint, answer, reply, motions, and discovery materials. AB 566 does not affect Wis. Stat. § 801.18, which governs electronic filing of documents with the courts.

I have been contacted by several attorneys requesting that service by email be added to the statutes, as this is the method by which most communication now happens between parties and attorneys. As an attorney myself, I understand the desire and need to bring this statute into the 21<sup>st</sup> century. Importantly, AB 566 does not *force* any party to a legal action to use electronic service. Parties will need to consent in writing to receive these documents by email.

Wisconsin would not be the first state to update its service statute. Electronic service is allowed under the Federal Rules of Civil Procedure and by various states, including Tennessee, Florida, South Dakota, Illinois, Michigan, and Oregon.

This is straightforward bill with bipartisan support, and I'm hopeful you will support it. Thank you.

Sincerely,

Representative Chris Taylor  
76th Assembly District