

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1879 (Gipson)
Version: May 23, 2024
Hearing Date: June 4, 2024
Fiscal: Yes
Urgency: No
AM

SUBJECT

Electronic signatures

DIGEST

This bill authorizes a taxpayer to elect to use an electronic signature in lieu of a manual, facsimile, or other signature for a State Board of Equalization form if a county assessor has authorized that form to be submitted via the use of electronic media if certain conditions are met. The bill requires a county assessor to accept the electronic signature, and provides that a compliant electronic signature is to have the same legal effect as the manual, facsimile, or other signature of the taxpayer. The bill also authorizes an assessor to accept the filing of all State Board of Equalization forms via electronic media, not just property statements.

EXECUTIVE SUMMARY

This bill seeks to allow a taxpayer the ability to use an electronic signature in lieu of a manual, facsimile, or other signature for a State Board of Equalization form if a county assessor has authorized that form to be submitted via the use of electronic media. This bill is sponsored by the California Assessors' Association and supported by various associations representing local government entities. No timely opposition was received by this Committee. Should this bill pass out of this Committee, it will next be heard in the Senate Revenue and Taxation Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Uniform Electronic Transactions Act (UETA), which generally authorizes the transaction of business, commerce, and contracts by electronic means. (Civ. Code § 1633.1 et seq.)

- a) UETA does not apply to transactions that are subject to certain laws, such as laws governing the creation and execution of wills, codicils, or testamentary trusts. (Civ. Code § 1633.3(a).)
 - b) Defines “electronic signature” as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. For purposes of UETA, a “digital signature” as defined in subdivision (d) of Section 16.5 of the Government Code is a type of electronic signature. (Civ. Code § 1633.2(h).)
 - c) Provides that an electronic signature has the same definition as under UETA for purposes of brokerage agreements, Levying Officer Transfer Act, California Franchise Investment Law, Corporate Securities Law, and various purposes under the Financial Code and Code of Civil Procedure. (Civ. Code § 1633(f); Code of Civ. Proc. §§ 17(b)(3) & 263.1(c); Corp. Code §§ 31158(b)(1)(H)(2) & 25620(b)(1)(H)(2); Fin. Code §§ 12201(c)(1)(H)(2), 17201(c)(1)(H)(2), & 22101(h)(1)(H)(2).))
- 2) Authorizes any party to any written communication with a public entity in which a signature is required or used to affix a signature by use of a digital signature that complies with specified requirements. (Civ. Code § 16.5(a).) Provides that the use or acceptance of a digital signature is at the option of the parties, and that these requirements do not require a public entity to use or permit the use of a digital signature. (*Id.* at subd. (b).)
- a) Defines “digital signature” as an electronic identifier, created by a computer, intended by the party using it to have the same force and effect as the use of a manual signature. For purposes of this section, a digital signature is a type of “electronic signature” as defined under UETA. (*Id.* at subd. (d).)
 - b) Defines “public entity” as including the state, the Regents of the University of California, the Trustees of the California State University and the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State. (Gov. Code § 811.2.)
- 3) Requires, if a public entity elects to use a digital signature, that digital signature is to have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:
- a) it is unique to the person using it;
 - b) it is capable of verification;
 - c) it is under the sole control of the person using it;
 - d) it is linked to data in such a manner that if the data are changed, the digital signature is invalidated; and
 - e) it conforms to regulations adopted by the Secretary of State. (*Id.* at subd. (a)(1)-(5).)

- 4) Authorizes a tax collector to execute a property tax document with a facsimile signature in lieu of a manual signature if the manual signature is filed with the Secretary of State and is certified under oath by the tax collector. A facsimile signature is to have the same legal effect as the manual signature of the tax collector. (Rev. & Tax. Code § 168.)
- 5) Specifies that all property is taxable, requires property to be assessed at the same percentage of fair market value, and requires property to be taxed in proportion to its full value. (Cal. Const., art. XIII, § 1.)
 - a) Limits the maximum amount of ad valorem taxation on real property to no more than 1% of the real property's "full cash value." Defines "full cash value" as the appraised value of real property when purchased, newly constructed, or when a change in ownership has occurred. (Cal. Const., art. XIII A, § 1 & 2.)
- 6) Requires a person who owns taxable personal property, other than a defined manufactured home, with an aggregate cost of more than \$100,000 to file a signed property statement with the county assessor. A person who owns personal property costing less than \$100,000 in the aggregate, or who owns real property, must file a signed property statement upon request by the assessor. (Rev. & Tax. Code § 441(a).)
 - a) Authorizes an assessor to accept the filing of a property statement by electronic media if that statement is authenticated pursuant to methods specified by the assessor and approved by the Board of Equalization. (*Id.* at subd. (k).)

This bill:

- 1) Authorizes a taxpayer to execute a State Board of Equalization form by electronic signature if a county assessor authorizes the submission of that form by the use of electronic media, as specified, if both of the following are met:
 - a) the electronic signature is accompanied by a form in the signature block that states that the taxpayer certifies or declares under penalty of perjury that all the information, including accompanying statements or materials, in the document is true, correct, and complete to the best of the taxpayer's knowledge; and
 - b) the electronic signature is authenticated in a manner that is approved by the State Board of Equalization.
- 2) Requires a county assessor to accept the electronic signature submitted pursuant to 1), above.
- 3) Requires every county to adopt any necessary ordinances, resolutions, or other procedures to give effect to these provisions.

- 4) Provides that an electronic signature in compliance with these provisions is to have the same legal effect as the manual, facsimile, or other signature of the taxpayer.
- 5) Defines “electronic signature” for these purposes in the same manner that “electronic signature” is defined under UETA.
- 6) Authorizes an assessor to accept the filing of all State Board of Equalization forms via electronic media, not just property statements.

COMMENTS

1. Stated need for the bill

The author writes:

The need for modernization in signature practices is evident in today's digital age. Electronic signatures offer numerous advantages, such as reducing paperwork, streamlining processes, and enabling remote interactions. This bill proposes clear guidelines and standards for electronic signatures, aiming to promote their efficient, secure, and legally valid use in various tax transactions.

2. Electronic and digital signatures

California has taken various steps to utilize more electronic resources within the various branches of government. In 1995, AB 1577 (Bowen, Ch. 594, Stats. 1995) was enacted to provide public entities an option, in any written communication in which a public entity is a party and a signature is required or used, to use a “digital signature.” (See Gov. Code § 16.5(a).) For those purposes, “digital signature” was defined to mean an electronic identifier, created by a computer, intended by the party using it to have the same force and effect as the use of a manual signature. (*Ibid.*) If a public entity elects to use a digital signature, it is to have the same force and effect as the use of a manual signature if and only if it meets certain conditions, including that it conform to regulations adopted by the Secretary of State, as specified. (*Ibid.*) Section 16.5 of the Government Code specifically provides that it does not require a public entity to use or permit the use of a digital signature and that the use or acceptance of a digital signature is to be at the option of the parties. (*Id.* at subd. (b).) Regulations adopted by the Secretary of State (SOS) require that a digital signature must be created under a technology that the SOS finds acceptable and has approved, provided that the digital signature is created consistent with certain requirements that are meant to ensure that the signature is unique to the person using it, capable of verification, and under the sole control of the person using it. (Cal. Code Regs. Tit. 2, Div. 7, Ch. 10, § 22003.)

In 1999 with the passage of SB 820 (Sher, Ch. 428, Stats. 1999), California enacted the Uniform Electronic Transactions Act (UETA), which was based on a model law to set

rules by which electronic commerce may be conducted across the country proposed by the National Conference of Commissioners on Uniform State Laws. UETA provides a voluntary system of rules and procedures for the sending and receiving of electronic records and signatures, the formation of contracts using electronic records, the making and retention of electronic records and signatures, and the procedures governing changes and errors in electronically transmitted records. UETA provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form, that a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation, and that an electronic record or signature satisfies a requirement in the law that a record be in writing or a signature be affixed or if a law provides consequences if there is no record or signature. (Civ. Code § 1633.7.) An “electronic signature” is defined under UETA as “an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.” (Civ. Code § 1633.2 (h).) Unlike Government Code Section 16.5, UETA does not dictate any particular method of creation for that electronic signature.

In 2010, AB 1926 (Evans, Ch. 167, Stats. 2010) was enacted to provide trial courts with the authority to create, maintain, and preserve trial court records electronically under procedures and guidelines set forth by the Judicial Council. That same year, AB 2394 (Brownley, Ch. 680, Stats. 2010) was enacted to establish the Levying Officer Electronic Transactions Act, whereby a levying officer could use electronic methods to create, generate, send, receive, store, display, retrieve, or process information, electronic records, and documents, as specified. Several bills were passed to bring consistency to the statutes governing electronic signatures, including AB 432 (Chang, Ch. 32, Stats. 2015) and AB 2296 (Low, Ch. 144, Stats. 2016.)

This bill seeks to allow a taxpayer to elect to use an electronic signature in lieu of a manual, facsimile, or other signature for a State Board of Equalization form if a county assessor has authorized that form to be submitted via the use of electronic media. The electronic signature must be accompanied by a form in the signature block that states that the taxpayer certifies or declares under penalty of perjury that all the information, including accompanying statements or materials, in the document is true, correct, and complete to the best of the taxpayer’s knowledge, and must be authenticated in a manner approved by the State Board of Equalization. If a taxpayer elects to submit a form via electronic signature pursuant to the above requirements, a county assessor is required to accept the electronic signature. An electronic signature in compliance with the provisions is to have the same legal effect as the manual, facsimile, or other signature of the taxpayer. A county is required to adopt any necessary ordinances, resolutions, or other procedures to give effect to these provisions. The definition of electronic signature for these purposes is the same as under UETA.

3. Statements in support

The California Assessors' Association, the sponsor of the bill, writes in support stating:

AB 1879 will reduce duplicative work within Assessors Offices and the need to track both electronic and paper files. Many Assessors across the state recognize the environmental need to reduce paper correspondence and many offices are moving towards digital government environment. We recognize that not every County Assessor has the ability to accept electronic forms; hence AB 1879 continues to provide every Assessor the option of offering electronic forms. AB 1879 expands the ability for an Assessor to offer electronic submissions on all State Board of Equalization forms. Current law only allows for property statements.

SUPPORT

California's Assessors' Association (sponsor)
California Apartment Association
California Association of County Treasurers and Tax Collectors
California Association of Realtors
California State Association of Counties
Resources for Community Development

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 2337 (Dixon, 2024) authorizes compromise and release agreements related to the workers' compensation system to be signed by an electronic signature, as specified. AB 2337 is currently pending in the Senate Labor, Public Employment and Retirement Committee.

Prior Legislation:

AB 2296 (Low, Ch. 144, Stats. 2016) clarified that a "digital signature" authorized by Government Code Section 16.5 and subject to regulations adopted by the Secretary of State is one type of "electronic signature" that a public agency may choose to adopt under UETA.

AB 432 (Chang, Ch. 32, Stats. 2015) brought consistency throughout the California statutes in relation to the term "electronic signature" by defining the term "electronic signature" for purposes of the Code of Civil Procedure to mirror the definition to those of "electronic signature" under UETA.

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AB 1926 (Evans, Ch. 167, Stats. 2010) *see* Comment 2, above.

AB 2394 (Brownley, Ch. 680, Stats. 2010) *see* Comment 2, above.

SB 820 (Sher, Ch. 428, Stats. 1999) enacted UETA (*see* Comment 2, above).

AB 1577 (Bowen, Ch. 594, Stats. 1995) *see* Comment 2, above.

PRIOR VOTES

Assembly Floor (Ayes 72, Noes 0)
Assembly Appropriations Committee (Ayes 14, Noes 0)
Assembly Revenue and Taxation Committee (Ayes 7, Noes 0)
Assembly Judiciary Committee (Ayes 10, Noes 0)
