

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 858 (Committee on Local Government)

Version: March 12, 2025

Hearing Date: May 6, 2025

Fiscal: No

Urgency: No

AM

SUBJECT

Local Government Omnibus Act of 2025

DIGEST

This bill makes various noncontroversial changes to existing law, and authorizes the board of supervisors of any county to use electronic signatures to sign records, minutes, and documents, as specified.

EXECUTIVE SUMMARY

This bill is the annual Senate Local Government Committee bill that makes various technical, clarifying, and noncontroversial changes to existing law. There is only one provision of the bill in this Committee's jurisdiction and this analysis will focus solely on that piece. Specifically, the bill authorizes the board of supervisors of any county to use electronic signatures to sign records, minutes, and documents, as provided. These electronic signatures would have the same force under law as any personal signature. This bill passed the Senate Local Government Committee on a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires the records and minutes of the board of supervisors (board) of any county to be signed by the chairperson and the clerk. (Gov. Coe § 25103(a).)
- 2) Provides the board may authorize, by resolution, the use of facsimile or signature of the chairperson of the board acting in any capacity, where the board sits as the governing body, agency, or entity on all papers, documents, or instruments requiring the signature of the chairperson of the board, including all resolutions, orders, ordinances, contracts, minutes, notices, deeds, leases, papers and records of

the board except that the original copy thereof, or the copy thereof filed in the office of the clerk of the board, must bear the personal signature of the chairperson or must have been delivered to the chairperson, and those papers, documents, or instruments bearing the facsimile signature shall be accorded the same force and effect as though personally signed by the chairperson. (*Ibid.*)

- a) All papers, documents, or instruments bearing the facsimile signature is to be accorded the same force and effect as though personally signed by the chairperson. (*Ibid.*)
- 3) Provides that the board may authorize the use of photographs, microphotographs, electronic data processing records, optical disks, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or photocopies of all records, books, and minutes of the board. (Gov. Code § 25105.)
 - a) If the authorization is granted, the personal signatures required by 1), above, may be reproduced by the authorized process and the reproduced signatures are deemed to satisfy the requirement of 1), above, if is technically feasible. (*Id.* at subd. (c).)
 - b) If the documents are signed using a digital signature, reproduced documents are considered authenticated if the reproduced documents are created by a trusted system, as defined in pertinent digital signature regulations. (*Ibid.*)
- 4) 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).))
- 5) 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.)
- 6) 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).)

This bill:

- 1) Removes the requirement that the board has to authorize the use of a facsimile signature by resolution and instead authorizes the board to use a facsimile or electronic signature of the chairperson.
 - a) Provides that a document bearing the electronic signature of the chairperson has the same force and effect as if personally signed by the chairperson.
- 2) Provides that if documents are signed using an electronic signature, reproduced documents are considered authenticated if the reproduced documents are created by a trusted system, as defined in the regulations of the SOS, or in compliance with the Uniform Electronic Transactions Act.
- 3) Makes various conforming and nonsubstantive changes.

COMMENTS

1. Stated need for the bill

The author writes:

SB 858 compiles, into a single bill, noncontroversial statutory changes to four parts of state laws that affect local agencies and land use. Moving a bill through the legislative process costs the state around \$18,000. By avoiding three other bills, the Committee's measure avoids approximately \$54,000 in legislative costs. Although the practice may violate a strict interpretation of the single-subject and germaneness rules, the Committee insists on a very public review of each item. More than 100 public officials, trade groups, lobbyists, and legislative staffers see each proposal before it goes into the Committee's bill. Should any item in SB 858 attract opposition, the Committee will delete it. In this transparent process, there is no hidden agenda. If it's not consensus, it's not omnibus.

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 (SOS), 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.) Last year, AB 1879 (Gipson, Ch. 271, Stats. 2024) authorized 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 and if certain conditions are met.

3. This bill authorizes the use of electronic signatures by a board of county supervisors

The chairperson of the board and the clerk must sign the records and minutes of the board of any county. (Gov. Code § 25103(a).) Under existing law only a facsimile signature may be used by the board and only when that use is approved by resolution. This bill authorizes the use of an electronic signature or facsimile signature of the chairperson of the board to sign any records and minutes of the board, and removes the requirement that this use is approved by resolution. The bill states that any document bearing the electronic signature of the chairperson has the same force and effect as if personally signed by the chairperson.

Existing law also authorizes the use of digital signatures for reproduced documents of the board if the signatures comply with all the pertinent digital signature regulations adopted by the SOS. This bill allows the use of an electronic signature on reproduced documents if that electronic signature complies with UETA.

The Senate Local Government Committee analysis notes that:

The California Clerk of the Board of Supervisors Association notes that the requirement to adopt resolutions for the use of facsimile signatures has impeded the transition to electronic documents away from hard copies, such that only a few counties have successfully accomplished the transition. They also note that a city or county clerk may already attest the validity of electronic signatures for city or county ordinances, but there is no explicit authorization to use electronic signatures for other documents that require the signature of the clerk and the chairperson of the board.¹

SUPPORT

California Association of Clerks and Election Officials
California Association of County Treasurers and Tax Collectors
County of Kern
East Bay Municipal Utility District

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: *See* Comment 2, above.

PRIOR VOTES

Senate Local Government Committee (Ayes 7, Noes 0)

¹ Sen. Loc. Gov. Comm. analysis of SB 858 (2025-26 reg. sess.) as amended March 12, 2025 at p. 1.