

Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON INSURANCE  
Lisa Calderon, Chair  
AB 2337 (Dixon) – As Introduced February 12, 2024

**SUBJECT:** Workers' compensation: electronic signatures

**SUMMARY:** Authorizes the use of electronic signatures in proceedings before the Workers' Compensation Appeals Board (WCAB). Specifically, **this bill:**

- 1) Defines signature for purposes of a proceeding before the WCAB to include an electronic record or electronic signature attributable to a person if it was the act of the person.
- 2) Provides that for every compromise and release agreement, filed with the WCAB, an electronic signature satisfies the signature requirement, as provided.

**EXISTING LAW:**

- 1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of, and in the course of, employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations (DIR) to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (California Constitution Article XIV, Section 4)
- 2) Establishes the WCAB within the Division of Workers' Compensation (DWC) and grants the WCAB all judicial power functions, as provided. (Labor Code Sections (LAB) 133 & 3200)
- 3) Requires every compromise and release filed with the WCAB to include the signature of the employee or other beneficiary and be attested by two witnesses or acknowledged before a notary public. (LAB 5003)
- 4) Defines "electronic signature" for purposes of brokerage agreements, Uniform Electronic Transfer Act, Levying Officer Transfer Act, California Franchise Investment Law, Corporate Securities Law, and various purposes under the Financial Code and Code of Civil Procedure, to mean 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. (Civil Code Sections (CIV) 1633(f), 1633.2(h); Code of Civil Procedure Sections (CCP) 17(b)(3), 263.1(c); Corporations Code Sections 31158(b)(1)(H)(2), 25620(b)(1)(H)(2); Financial Code Sections 12201(c)(1)(H)(2), 17201(c)(1)(H)(2), 22101(h)(1)(H)(2))
- 5) Provides that a "digital signature," as defined, is considered a type of "electronic signature." (CIV 1633.2 (h))
- 6) Provides for the electronic filing of documents in civil actions, including the use of electronic signatures. (CCP 1010.6)
- 7) Provides that if by law a signature is required to be notarized, the requirement is satisfied with respect to an electronic signature if an electronic record includes, in addition to the electronic

signature to be notarized, the electronic signature of a notary public, as provided. (CIV 1633.11)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) *Purpose.* According to the author:

AB 2337 is a commonsense measure that will authorize the use of electronic signatures in proceedings before the Workers' Compensation Appeals Board (WCAB). During the COVID-19 state of emergency, WCAB authorized electronic signatures on a compromise and release. When the COVID-19 state of emergency was terminated, WCAB rescinded the authorization to use electronic signatures, reverting back to the requirement of a "wet" signature. Electronic signatures were used effectively in workers' compensation proceedings for three years during the state of emergency. California explicitly authorizes electronic signatures in civil proceedings, where they are widely used. AB 2337 will authorize the use of electronic signatures on a compromise and release as well as other documents and filings in proceedings before WCAB, modernizing those proceedings for the benefit of all participants.

2) *WCAB allowed the use of electronic signatures during COVID-19.* On March 18, 2020, shortly after Governor Newsom declared a state of emergency in response to the spread of COVID-19, WCAB issued an en banc decision, Case No. MISC. NO. 260, with several orders, including authorization to use electronic signatures on compromise and release agreements. When the state of emergency was terminated by the Governor on February 28, 2023, WCAB issued another en banc decision, Case No. MISC. NO. 268, rescinding provisions of en banc orders made during the state of emergency, including those relating to the authorized use of electronic signatures, as contained in Case No. MISC. NO. 260.

With the rescission of that order, electronic signatures are no longer being allowed in workers' compensation proceedings as they are not explicitly authorized under the Labor Code. This bill would codify the authorized use of electronic signatures on a compromise and release and additional documents filed in proceedings before the WCAB.

As discussed below, following the passage of the Uniform Electronic Transaction Act (UETA), electronic signatures have been authorized for numerous types of records, including being used in proceedings in civil court. The language in this bill follows the UETA model.

3) *UETA.* In 1999, the Legislature passed the UETA which established uniform standards for conducting electronic transactions in California. (SB 820 (Sher), 1999.) UETA set out 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. It also established the validity of transactions formed, transmitted and recorded electronically, and established the admissibility of electronic records in a legal proceeding. Of particular relevance for this bill, UETA 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." (Civil Code Section 1633.2 (h).)

- 4) *Related legislation.* AB 1879 (Gipson), of the current legislative session, would allow electronic signatures on property tax documents, as specified. This bill passed the Assembly Judiciary Committee on March 12, 2024 and will be heard by the Assembly Revenue and Taxation Committee on April 1, 2024.
- 5) *Prior legislation.*
- a) AB 1926 (Evans), Chapter 167, Statutes of 2010 provided trial courts with the ability to create, maintain, and preserve trial court records electronically under procedures and guidelines to be provided for by the Judicial Council.
  - b) AB 2394 (Brownley), Chapter 428, Statutes of 2010 established 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.
  - c) AB 578 (Leno), Chapter 621, Statutes of 2004 enacted the Electronic Recording Delivery Act of 2004 regulating the electronic delivery, recording, and return of instruments affecting rights, title, or interest in real property.
  - d) SB 820 (Sher), Chapter 428, Statutes of 1999 created the Uniform Electronic Transaction Act, which authorized electronic signatures for contracting purposes.
  - e) SB 367 (Dunn), Chapter 514, Statutes of 1999 authorized courts to adopt local rules of court permitting electronic filing and service of documents, as specified.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Allied Managed Care and Acclamation Insurance Management Services  
 American Property Casualty Insurance Association  
 Association of California Healthcare Districts (ACHD)  
 California Applicants' Attorneys Association  
 California Association of Joint Powers Authorities (CAJPA)  
 California Chamber of Commerce  
 California Coalition on Workers Compensation  
 California Joint Powers Insurance Authority  
 California Lawyers Association, Workers' Compensation Section  
 California Special Districts Association  
 California State Association of Counties (CSAC)  
 Housing Contractors of California  
 Public Risk Innovation, Solutions, and Management (PRISM)  
 Urban Counties of California (UCC)

### **Opposition**

None on file

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