



Lynda J. Jacobsen

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 204**

125th General Assembly  
(As Introduced)

**Reps. Wolpert, Gilb, Seitz, McGregor, Collier, Barrett, Allen, Kearns, Seaver, Chandler**

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### **BILL SUMMARY**

- Requires a county office, before using electronic records and electronic signatures, to adopt a security procedure for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record.
- Specifies that an electronic record must have the same force and effect as a paper filing in all cases where (1) the county office has authorized or agreed to the electronic filing and (2) the filing is made in accordance with applicable rules or an applicable agreement.
- Specifies that the bill does not require and cannot be construed to require a county office to use or permit the use of electronic records and electronic signatures.
- Requires the Auditor of State, in conducting a required or permitted audit of a county office, to inquire into the method, accuracy, and effectiveness of any security procedure adopted by that office for use with electronic records and electronic signatures.
- Excludes nonelectronic contracts to which a county office is a party from existing law's declaration that "conduct of transactions by electronic means" provisions are unenforceable against consumers who do not separately sign the provisions.
- Defines the "Internet" for the purpose of the entire Revised Code and eliminates individual definitions of the term throughout existing law.

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## CONTENT AND OPERATION

### *Use of electronic records and signatures by county offices*

Unless a law explicitly requires a transaction to be conducted by paper or other means, Chapter 1306. of the Revised Code, known as the Uniform Electronic Transactions Act (UETA), generally authorizes the state and various political subdivisions to conduct transactions electronically. If a specific statutory provision requires a document to be maintained in paper format or prescribes the exact manner in which a particular transaction must be conducted, that specific provision would rule over the general UETA authorization. Thus, under existing law, political subdivisions, including county offices, may conduct business by electronic transaction, unless a statute specifically requires business to be conducted in another manner. There is, however, no requirement that an office transact business electronically, and, thus, the extent to which an office transacts business electronically is left to its discretion (sec. 1306.04--not in the bill).

The bill generally requires a county office, before it uses electronic records and electronic signatures under the UETA, to adopt a security procedure for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. A security procedure includes, but is not limited to, a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback, or other acknowledgement procedures. A security procedure adopted under this requirement must be adopted in writing. (Secs. 304.01 and 304.02.)

The bill specifies that, whenever any rule or law requires or authorizes the filing of any information, notice, lien, or other document or record with any county office, a filing made by an electronic record has the same force and effect as a filing made on paper in all cases where (1) the county office has authorized or agreed to the electronic filing and (2) the filing is made in accordance with applicable rules or an applicable agreement (secs. 304.01 and 304.03(A)).

Nothing in the bill, however, authorizes or can be construed to authorize the use of a financial transaction device in an electronic transaction for the acceptance of payments for county expenses; existing law permitting a board of county commissioners to authorize the acceptance of payments by financial transaction devices for county expenses and a county auditor to accept payment of dog and kennel registration fees by those devices via the Internet is not affected by the bill (secs. 304.01 and 304.03(B) and (C)). And, nothing in the bill requires or can be construed to require a county office to use or permit the use of electronic records and electronic signatures (secs. 304.01 and 304.04).

**Auditing of electronic security procedures**

If a county office uses electronic records and electronic signatures under the UETA, the bill requires the Auditor of State, in conducting a required or permitted audit of that office, to inquire into the method, accuracy, and effectiveness of any security procedure adopted by that office (sec. 117.111).

**Consumers and electronic transactions**

Under current law, if a provision in specified *nonelectronic* contracts involving a consumer authorizes the conducting of a transaction (in whole or in part) by electronic means, the provision is unenforceable against the consumer unless he or she separately signs it. This unenforceability applies to such a provision in any nonelectronic contract to which a "state agency" is not a party. The bill instead provides that this unenforceability applies to such a provision in any nonelectronic contract to which a state agency or a *county office* is not a party. For this purpose, "county office" means any officer, department, board, commission, agency, court, or other instrumentality of a county. (Sec. 1306.16(A) and (D).)

**Definition of the "Internet"**

Under existing law, references to the "Internet" are made in numerous provisions of the Revised Code. Several of those provisions, including one in the Campaign Finance Law, include a definition of the term. Other provisions of existing law use the term but leave it undefined.

The bill eliminates each of the individual definitions of "Internet," and instead defines the term in the General Provisions that apply to the entire Revised Code. Under the bill, the "Internet" is defined, for the purpose of the entire Revised Code, as the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web. (Sec. 1.59(K) and also amended secs. 9.08, 9.314, 101.691, 125.072, 149.432, 307.12, 341.42, 505.10, 718.07, 721.15, 753.32, 955.013, 2307.64, 3517.10, 3517.106, 3517.11, 5145.31, and 5703.49.)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	05-29-03	p. 525

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