

**SUBJECT:** Authorizing the use of digital signatures.

**COMMITTEE:** Civil Practices — committee substitute recommended

**VOTE:** 7 ayes — Gray, Bosse, Dutton, Goodman, Nixon, Roman, Zbranek  
0 nays  
2 absent — Hilbert, Alvarado

**WITNESSES:** (*On original version*)  
For — Kevin Carr, Denton County; Michelle Roberts, Texas Bankers Association; George Allen, Texas Apartment Association; Myra Leo, EDS of Plano; Andrew Wise, American Elections Association  
  
Against — Ben Wright, PenOp, Inc.  
  
On — C.J. Brant and Clyde Poole, Department of Information Resources; Michael Greenberg, Comptroller of Public Accounts

**DIGEST:** CSHB 948 would validate use of digital signatures in documents governed by the Business and Commerce Code and documents sent to a state agency or local government. “Digital signature” would be defined as an electronic identifier intended by the person using it to have the same force and effect as a manual signature.

Digital signatures would be subject to Penal Code provisions related to fraud or computer crimes. Other symbols currently allowed in lieu of manual signatures could still be used.

In order to be accepted by a state agency, the signature would have to conform to rules to be adopted by the Department of Information Resources (DIR). Digital signatures transmitted to local governments would have to comply with rules adopted by the local government. Local rules, to the extent possible, would have to conform to the rules adopted by DIR.

This bill would take effect on September 1, 1997.

**SUPPORTERS SAY:** CSHB 984 would meet the demands of new technology by allowing use of digital signature by those doing business electronically. In an increasingly electronic business and legal environment, digital signatures provide an effective means of authenticating electronic documents. In many instances it is actually more difficult to fraudulently use a digital signature than a manual signature.

Digital signatures used now are subject to challenge in court because there are not clear guidelines for their use. CSHB 984 would clarify that such signatures are on par with manual signatures and could only be questioned when fraud or forgery were involved.

DIR, the primary state agency for electronic and computer matters, would be responsible for creating rules for the use of digital signatures in communications to state and local governments. DIR is qualified to examine the issues related to digital signatures and develop guidelines for state agencies and local governments.

**OPPONENTS SAY:** No apparent opposition.

**NOTES:** The committee substitute to HB 984 would amend the Business and Commerce and Government Codes rather than the Civil Practices and Remedies Code. The substitute also added provisions to the original version of the bill that would:

- subject digital signatures to fraud under the Penal Code;
- allow DIR to consult with the Office of Court Administration and local governments in developing rules;
- allow digital signatures to be valid for instruments of local governments; and
- allow the use of other symbols available under the Business and Commerce Code in lieu of a signature.

The companion bill, SB 746 by Sibley, has been referred to the Senate Jurisprudence Committee.