

CHAPTER 414

GOVERNMENT - STATE

SENATE BILL 03-230

BY SENATOR(S) May R., Lamborn, Cairns, Andrews, Fitz-Gerald, Entz, Jones, Phillips, Taylor, and Teck;
also REPRESENTATIVE(S) Fritz, Brophy, Butcher, Cadman, Cloer, Coleman, Hodge, Hoppe, Lee, McFadyen, Merrifield,
Miller, Rippy, Romanoff, Stafford, Weddig, and Williams S.

AN ACT

CONCERNING AN AUTHORIZATION FOR THE SECRETARY OF STATE TO PROMULGATE RULES PURSUANT TO THE "UNIFORM ELECTRONIC TRANSACTIONS ACT", AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-71.3-118 (1), Colorado Revised Statutes, is amended to read:

24-71.3-118. Acceptance and distribution of electronic records by governmental agencies - rules - repeal. (1) Except as otherwise provided in section 24-71.3-112 (6), each department, board, commission, authority, institution, or instrumentality of the state ~~in consultation with the office of innovation and technology and the state archivist and in accordance with the policies, standards, and guidelines set forth by the office of innovation and technology;~~ may determine the extent to which such department, board, commission, authority, institution, or instrumentality shall send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. A county, municipality, or other political subdivision, or any of their instrumentalities, shall have the general power, in relation to the administration of the affairs of a county, municipality, or of their political subdivision, or any of their instrumentalities, to determine the extent to which it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

SECTION 2. 24-71.3-118 (2), Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

24-71.3-118. Acceptance and distribution of electronic records by governmental agencies - rules. (2) EXCEPT IN RELATION TO ELECTRONIC PAYMENTS, WHICH SHALL BE GOVERNED BY THE STATE TREASURER, TO THE EXTENT THAT A DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THIS STATE USES ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES UNDER SUBSECTION (1) OF THIS SECTION, THE SECRETARY OF STATE, GIVING DUE CONSIDERATION TO SECURITY, SHALL BY RULE SPECIFY:

(a) THE MANNER AND FORMAT IN WHICH THE ELECTRONIC RECORDS MUST BE CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, AND STORED AND THE SYSTEMS ESTABLISHED FOR THOSE PURPOSES;

(b) IF ELECTRONIC RECORDS MUST BE SIGNED BY ELECTRONIC MEANS, THE TYPE OF ELECTRONIC SIGNATURE REQUIRED, THE MANNER AND FORMAT IN WHICH THE ELECTRONIC SIGNATURE MUST BE AFFIXED TO THE ELECTRONIC RECORD, AND THE IDENTITY OF, OR CRITERIA THAT MUST BE MET BY, ANY THIRD PARTY USED BY A PERSON FILING A DOCUMENT TO FACILITATE THE PROCESS;

(c) CONTROL PROCESSES AND PROCEDURES AS APPROPRIATE TO ENSURE ADEQUATE PRESERVATION, DISPOSITION, INTEGRITY, SECURITY, CONFIDENTIALITY, AND AUDITABILITY OF ELECTRONIC RECORDS; AND

(d) ANY OTHER REQUIRED ATTRIBUTES FOR ELECTRONIC RECORDS THAT ARE SPECIFIED FOR CORRESPONDING NONELECTRONIC RECORDS OR REASONABLY NECESSARY UNDER THE CIRCUMSTANCES.

SECTION 3. 24-71.3-119, Colorado Revised Statutes, is amended to read:

24-71.3-119. Interoperability. The secretary of state may, in ~~consultation with the office of innovation and technology and the state archivist and in accordance with the policies, standards, and guidelines set forth by the office of innovation and technology~~, ADOPTING RULES PROMULGATED PURSUANT TO SECTION 24-71.3-118, encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, ~~those standards~~ SUCH RULES may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2003, the sum of one hundred ninety-four thousand five hundred seventeen dollars (\$194,517) and 1.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 5. Effective date. (1) This act shall take effect January 1, 2004.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V,

section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

Approved: June 5, 2003