

California Considers a New Blockchain-Related Bill

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California has taken a conservative step on the path to greater regulation of blockchain technology or legal recognition of blockchain-secured data. On May 18, an amended bill was referred to the State Assembly Appropriations Committee for review that would provide for the establishment of a blockchain working group to evaluate “the potential uses, risks, and benefits of the use of blockchain technology by state government and California-based businesses.” The amended bill also provides a legal definition of “blockchain.”^[1]

In February, the first version of the bill was introduced by California State Senator Robert Hertzberg before the State’s Senate Banking and Financial Institutions Committee with substantially different contents. The initial bill would have expanded the definition of “electronic record” and “electronic signature” in the California Uniform Electronic Transactions Act to include records and signatures that are secured through blockchain technology. It also would have expanded the definition of “contract” in the Act to include a smart contract, as defined,^[2] and would have given the same legal effect to blockchain-secured data, including ownership records, as data stored in a traditional database.

In April, the State’s Senate Banking and Financial Institutions Committee then amended and referred the bill to the Judiciary Committee with a “do pass” recommendation. Notably, all reference to smart contracts was taken away in the amended version.

The bill was further revised to its current formulation by the Judiciary Committee and has been referred to the Assembly Appropriation Committee for further review. Instead of making the significant step to legally recognize the records and signatures stored on a blockchain, as the bill initially contemplated, the amended bill merely would establish a blockchain working group to evaluate “the potential uses, risks, and benefits of the use of blockchain technology by state government and California-based businesses, on or before July 1, 2020.” Such blockchain working group would be composed of appointees from a broad range of government and private institutions. In particular, evaluating the privacy risks associated with the implementation of blockchain technology was singled out as the focus of the working group, which would consist of two appointees representing privacy organizations and two appointees representing consumer organizations, among others.

[1] The bill defines blockchain as “an electronic record of transactions or other data that is (1) uniformly ordered, (2) redundantly maintained or processed by one or more computers or machines to guarantee the consistency or nonrepudiation of the recorded transactions or other data; (3)

validated by the use of cryptography.” See <https://legiscan.com/CA/text/AB2658/2017>

[2] The initial bill defined smart contract as “an event-driven program that runs on a distributed, decentralized, shared, and replicated ledger that can take custody over, and instruct transfer of, assets on that ledger.” See <https://legiscan.com/CA/text/AB2658/id/1732549>

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National Law Review, Volume VIII, Number 146

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