

HOUSE BILL REPORT

SSB 5638

As Passed House:
April 15, 2019

Title: An act relating to recognizing the validity of distributed ledger technology.

Brief Description: Recognizing the validity of distributed ledger technology.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Brown, Rivers, Becker and Short).

Brief History:

Committee Activity:

Innovation, Technology & Economic Development: 3/19/19, 3/27/19 [DP].

Floor Activity:

Passed House: 4/15/19, 96-1.

Brief Summary of Substitute Bill

- Provides that an electronic record may not be denied legal effect or enforceability solely because it is generated or stored using distributed ledger technology.

HOUSE COMMITTEE ON INNOVATION, TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: Do pass. Signed by 9 members: Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Morris, Slatter, Tarleton, Van Werven and Wylie.

Staff: Yelena Baker (786-7301).

Background:

A blockchain is an electronic ledger of digital records, events, or transactions that is authenticated and maintained through a distributed or shared network of participants using a group consensus protocol.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Blockchain technology does not provide for storage of records or transactions but instead encrypts the contents of a record or a transaction, plus a few key pieces of metadata (such as the timestamp and the parties involved), into an output known as a hash, which is a short digest, or representation, of the record. Blockchain technology does not verify the accuracy of a record's contents; instead, it confirms the party submitting a record to a blockchain, the time and date of its submission, and the contents of the record at the time of submission. In certain situations, this process allows for elimination of a third-party intermediary.

In the private sector, blockchain technology is in the early stages of adoption, and while it is most commonly associated with the cryptocurrency Bitcoin, other evolving applications can include insurance policies, property and real estate records, copyrights and licenses, supply chain tracking, and the financial services industry. Another blockchain application is smart contracts, where payouts between the contracted parties are embedded in the blockchain and automatically execute when contractual conditions have been met.

Several states have formed blockchain task forces to identify opportunities, risks, and governance issues related to blockchain technology. Several other states have introduced or passed blockchain-specific legislation specifying the permitted uses and the limitations to the use of blockchain technology in transactions and legal proceedings, requiring state agencies to consider the use of blockchain when accepting business licensing records, and authorizing certain business entities to use distributed ledgers for recordkeeping requirements.

Some states that have adopted the Uniform Electronic Transactions Act (UETA), which provides that a record or a signature may not be denied legal effect or enforceability solely because it is in electronic form, have extended the UETA provisions to signatures or records secured through blockchain technology.

Washington law provides that state and local agencies may use and accept electronic signatures with the same force and effect as that of a signature affixed by hand, and where a "writing" is required by statute, an electronic record may be used. Each agency may determine whether and to what extent it uses and relies on electronic records and electronic signatures. A state agency is not required to send or accept electronic records or electronic signatures for an agency transaction.

Summary of Bill:

An electronic record may not be denied legal effect, validity, or enforceability solely because it is generated, communicated, received, or stored using distributed ledger technology.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Distributed ledger technology" means any distributed ledger protocol and supporting infrastructure, including blockchain, that uses a distributed, decentralized, shared, and replicated ledger.

"Blockchain" means a cryptographically-secured, chronological, and decentralized consensus ledger or database maintained via Internet, peer-to-peer network, or other similar interaction.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill recognizes blockchain technology that prevents alteration of coded and secured records and allows keeping information and conducting transactions in a secure manner. There is no difference between storing data using distributed ledger technology and using another database system that is already legally recognized.

This bill is not about cryptocurrencies or Bitcoin mining. Cryptocurrencies represent only a small fraction of how blockchain is being deployed by companies all around the world and here in Washington to dramatically improve the quality and delivery of their services. For example, startups in Washington are using blockchain to help patients track and control their health information; Boeing is using blockchain to track cargo transports; and Amazon Web Services is using blockchain to provide customers with a clear and permanent transaction log. There are numerous examples of leveraging blockchain technology in the real estate industry, such as reducing fraud, simplifying the title records process, and shrinking the time required to record conveyance documents. Blockchain can help enterprises and consumers across many industries to lower transaction costs, speed up processes, and provide security and trust.

The United States is lagging behind many countries, most notably China and other Asian countries that represent more than 80 percent of the blockchain investment today. This is due to the lack of clear regulation in the United States. Some states, like Wyoming, have passed numerous blockchain-related laws; Illinois supports blockchain deployment in government programs, like Medicare and unemployment insurance, but Washington, the global capital of cloud and platform technologies, has not yet recognized blockchain as legitimate technology. As a result, some technology companies may begin to migrate toward these other states that have embraced blockchain technology. This bill is a critical step in recognizing the validity of this technology and laying the groundwork for future regulations, which will attract investment and innovation.

(Opposed) None.

Persons Testifying: Senator Brown, prime sponsor; Arry Yu, Cascadia Blockchain Council; Alvaro Jimenez Jimenez, Gaudium Capital; Joe Honan, Trinity Block; and Brock Freeman, FIBREE.org.

Persons Signed In To Testify But Not Testifying: None.