



June 6, 2016

Senate Judiciary Committee  
State Capitol, Room 2187  
Sacramento, CA 95814

RE: Opposition to AB 2880

Dear Chair Jackson:

SPARC (the Scholarly Publishing and Academic Resources Coalition) is an alliance of more than 210 academic and research libraries in the U.S. including 15 member organizations located in California. SPARC is committed to the open sharing of research outputs and educational materials to increase the impact of research, fuel the advancement of knowledge, and increase our collective return on research and education investments, and to improve the public good. We are firmly committed to the principle that U.S. taxpayers are entitled to freely access and fully use works that their tax dollars have funded.

We are writing to strongly oppose AB 2880, proposed legislation that would grant a blanket authorization to state entities to assert copyright over taxpayer-funded works. Enacting this legislation will have an immediate and negative effect on the public's ability to access and use public records. It will hinder citizen speech, dampen important government openness efforts, and have a chilling effect on the public domain. California citizens currently enjoy the right to freely access public records with very few exceptions, and AB 2880 represents a major rollback of these rights in favor of state copyrights.

Although supporters of this proposed legislation claim that AB 2880 simply clarifies existing law, we believe it actually reverses it. Current legal cases (see: *County of Santa Clara v Superior Court* (2009) 170 Cal. App. 4th 1301) have interpreted California law and the California Constitution to create a strong presumption in favor of public access and public use of state records. They have also established a rule that state agencies cannot use federal copyright law to restrict the public's use of state records, except in specific areas where the Legislature has already identified a need and granted specific authorization. Current federal policy mirrors this practice, with government employees prohibited from asserting copyright to their work products.

AB 2880 would explicitly override these precedents, and establish a default rule that *all* state records can be restricted by copyright, and set new limitations on public access and use that could be enforced with federal litigation. This change could set a dangerous precedent for unnecessarily restricting the public's access to public works.

As an organization that vigorously advocates for open government and public access to publicly-funded works, we urge the Senate Judiciary Committee to reject AB 2880 and to preserve your citizens the right to freely access and use public records.

Sincerely,

A handwritten signature in black ink that reads "Heather Joseph". The signature is written in a cursive style with a large, prominent "H" and "J".

Heather Joseph  
Executive Director