March 28, 2016

The Honorable Mark Stone

Chairman

Assembly Judiciary Committee

1020 N Street – Room 104

Sacramento, CA 95814

Dear Chairman Stone:

We write to you to express our opposition to the current version of AB 2880, legislation that would for the first time grant all state and local public entities the blanket authority to create, hold, and assert copyrights. The bill represents a significant shift away from California’s role as one of the strongest state contributors to the public domain.

The purpose of copyright law is to incentivize creativity by granting a monopoly over a work for a limited time. However, such incentives are unnecessary when the resources are provided from the taxpayer. As a result, Congress has expressly excluded all work done by federal government employees from the scope of copyright, so that taxpayers can immediately benefit from new contributions to the public domain. AB 2880 would chart a different course by granting state and local governments the power to assert copyrights over taxpayer-funded work. This presents a serious issue, as it would grant state and local government the power to suppress the dissemination of government-funded works for nearly a century after creation, despite the current Public Records Act exemptions in the bill.

The legislative history on state copyright law indicates that the legislature never intended for all divisions of government to have the power to assert copyright. In fact, the legislature’s approach has favored enriching the public domain. For example, state law encourages state-funded research to be put into the public domain where appropriate. Publications involving consumer information and county created geographic information system basemaps are automatically put into the public domain under state law. In only five specific and limited circumstances has the state legislature decided to grant copyright authority to state employees. Those instances are for computer software, community colleges, county boards of education, works created by the Department of Toxic Substances Control, and works created under contract with the California Health and Human Services Agency.

We urge you to reconsider the approach AB 2880 charts out to avoid the unintended consequences of dramatically expanding copyright restrictions over all state and local government created works.

Sincerely,

Electronic Frontier Foundation