

STATE GOVERNMENT INFORMATION AND THE COPYRIGHT CONUNDRUM

February 12, 2015

Transportation Libraries Roundtable

Webinar Series



State Government Information and the Copyright Conundrum
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Speakers

CONTACT US: <http://stategov.freegovinfo.info/>

- Bernadette Bartlett, Library of Michigan, Michigan Documents Librarian
- Kristina Eden, University of Michigan, Instruction Librarian for the Copyright Review Management System (CRMS)
- Kris Kasianovitz, Stanford University Library, Government Information Librarian

Agenda

- Session Outcomes
- Survey Results
- Copyright Landscape: Definitions, Concepts
- Digitization Projects: Perspectives and Approaches
- FSGI and Next Steps
- Q&A - Discussion

Session Outcomes

- Raise issues and provide background information related to copyright of state government information
- Explore solutions for state government information copyright issues and digitization projects.
- Generate support and connections to work towards policy change.
- Get to know FSGL: Free State Government Information.

Link to Survey

<http://bit.ly/1MdtUJf>

Survey Results

Have a digitization project of state government materials
(n= 28) Yes = 20 No = 8

Types of materials: research reports, annual reports, DOT publications,
administrative reports

Does your State have a copyright policy?

(n= 23) Yes = 1 No = 4 Don't Know = 18

Able to Sign a Permission Agreement?(n= 20)

Willing to use form to get permissions = 5

Someone at organization is able to sign = 12

Not able to sign/Unclear = 6

Importance of Copyright (n= 23)

Very Important = 1

Moderately Important/Important = 8

Unimportant/Little Importance = 12

Don't Know = 2

What the survey has told us...

“I think some agencies have copyrighted their content, but others have not. I can't find anything in our state code about it.

It seems kind of like the wild west.”

“In our state it seems like no one really knows what's going on...”

States should use Creative Commons Attribution, Non-Commercial licenses.

PUBLICATIONS not records!

State Government Information =

published and distributed
print or online

for the public's consumption
includes, but not limited to:



A word cloud containing various types of state government publications. The words are arranged in a roughly rectangular shape, with some words appearing larger than others. The words include: bills, rosters, newsletters, hearings, pamphlets, analyses, statistical reports, annual reports, geospatial data, curriculum standards, etc, calendars, manualshandbooks, numeric data, codes, magazines, maps, budgets, special reports, regulations, rules, statutes, posters, directories, and journals.

17 U.S. Code § 102(a) – Subject Matter of Copyright

Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression..

17 U.S. Code §105 – Copyright and U.S. Government works

Copyright protection under this title is not available for any work of the United States Government...

Federal

17 U.S. Code Ch. 1 § 105 - Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government,
but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

Source: US Code. 2012. Government Printing Office.
<http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE>

50 States



When would it be public domain?

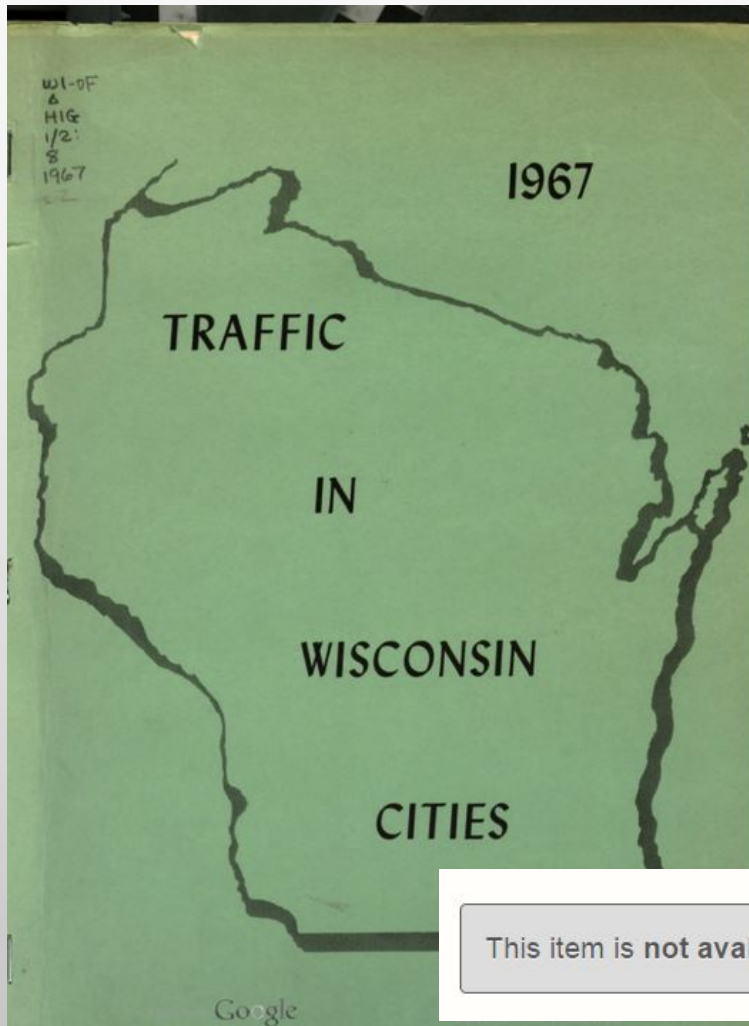
Federal government document : Now
State government document : 2111

Publicly Available VS Public Domain

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State documents in HathiTrust



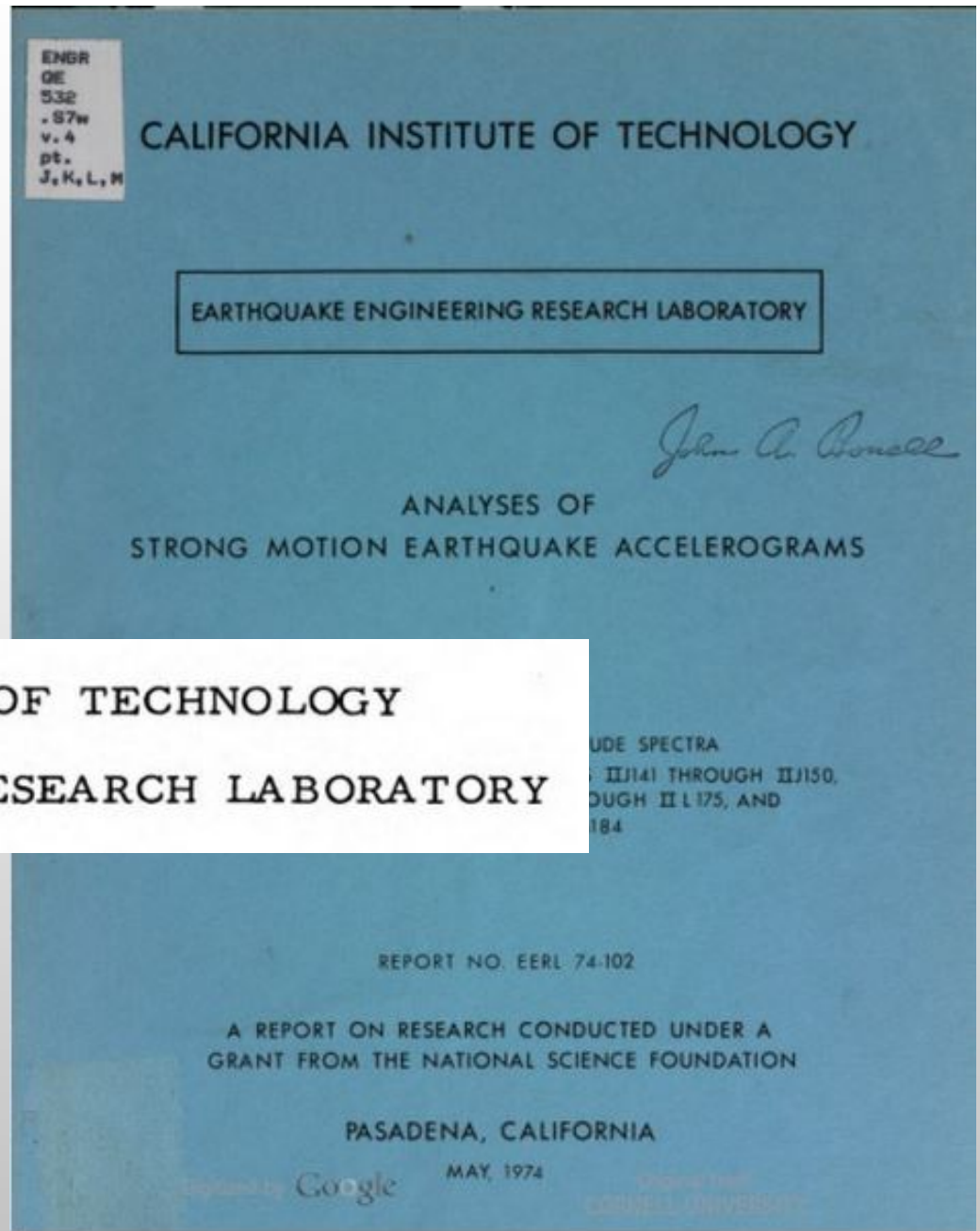
Department of Transportation
DIVISION OF HIGHWAYS
Bureau of Planning and Research
System Planning Section

IN COOPERATION WITH THE

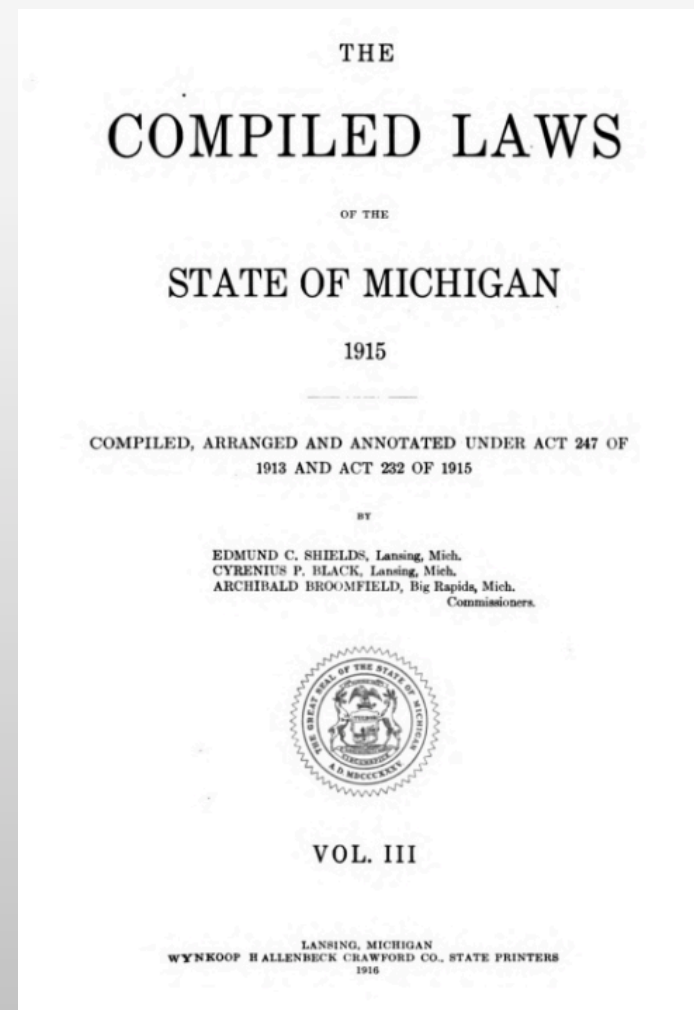
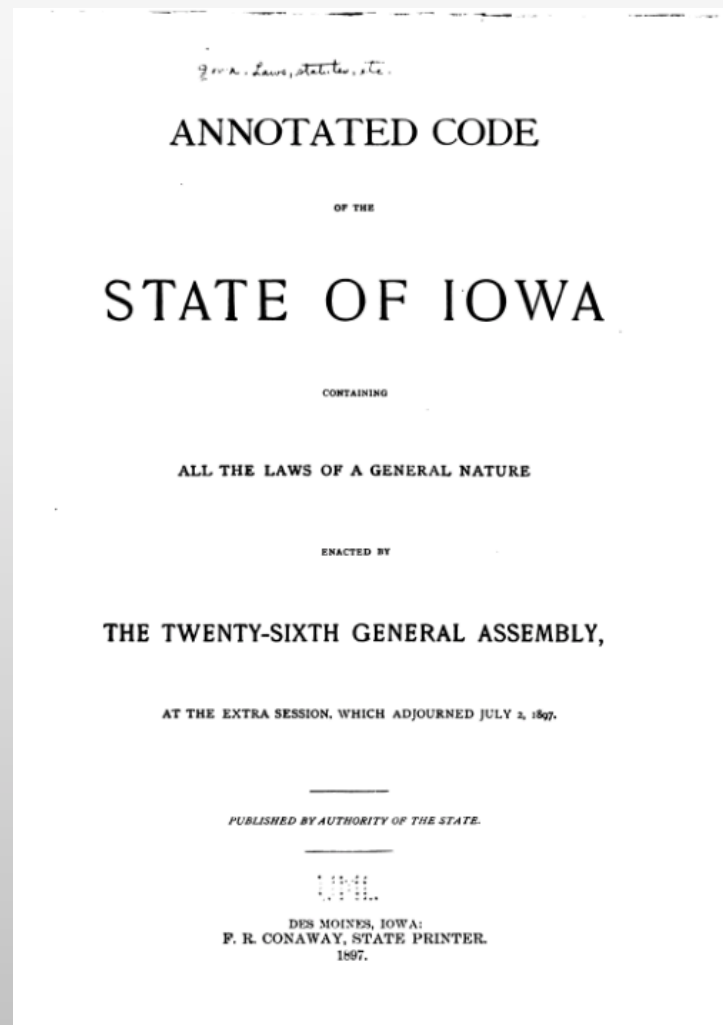
U. S. Department of Transportation
Federal Highway Administration
Bureau of Public Roads

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Contract work



Annotated Code



Copyright and Annotated Codes

The Committee's position is that the annotated Code that you have copied and published is comprised of copyright-protected material. The Committee therefore requests that you immediately remove the annotated version of the Mississippi Code of 1972 Annotated from any and all of your website(s)...

Letter from Mississippi Attorney
General's Office to public.resource.org

We all have digitization projects



Approaches to dealing with Copyright

Immediate Approaches

- Perspectives from Academic and State Libraries
 - Seek Permission
 - Take down notices
- Perspective from HathiTrust
 - Copyright Review

Long Term Approaches

- Legislative Change
- Executive Authority
- Creative Commons

Digitization Project – Academic Library Perspective



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By: Massachusetts. Division of Banks and Loan Agencies.
Published: (1906)

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By: Massachusetts. Division of Banks and Loan Agencies.
Published: (1906)

Annual report of the Bank Commissioner.
By: Vermont. Banking Division.
Published: (1951)

Annual report of the bank commissioner.
By: Philippines. Bureau of Banking.
Published: (1930)

Annual Report of the Bank Commissioner
By: Philippines. Bureau of Banking

Annual Report of the Commissioner of the Banking Dept
By: Michigan. Banking Dept

Annual report of the Office of Commissioner of Banking.
By: Wisconsin. Office of Commissioner of Banking.
Published: (1975)

Annual report of the Board of Bank Commissioners
By: New Hampshire. Board of Bank Commissioners.
Published: (1800)



Annual Report of the Bank Commissioner

Corporate Author: [Arkansas.](#)
Language(s): English
Locate a Print Version: Find in a library service is not available from this catalog. S

Viewability:

- [Full view](#) [1913-14](#) (original from University of California)
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University of Texas Libraries

Library Catalog: Search for Books, Journals, Music and More

Keyword
Advanced Search
Title
Journal Title
Author
Author + Title
Subject Heading
Call Number
ISBN or Other Nos.
Course Reserves
Music Search



Corporate author [Iowa. Banking Department.](#)
Title [Report of the Superintendent of Banking for the year ending ...](#)
Publication Information Des Moines : State of Iowa,

Location	Call No.	Current Status
Library Storage (PCL Stacks) -- click Pick It Up	332.109 IO9 1936/37-1945/46	AVAILABLE
Library Storage (PCL Stacks) -- click Pick It Up	332.109 IO9 1935/36	AVAILABLE
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Library Storage (PCL Stacks) -- click Pick It Up	332.109 IO9 1931-32	AVAILABLE
Library Storage (PCL Stacks) -- click Pick It Up	332.109 IO9 1930-31	AVAILABLE
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Annual report of the State Corporation Commission showing the condition of the incorp

At the Library

SAL3 (off-campus storage) - Page for delivery

Library has: 1927-28; 27-42, 1930-46

- [332.0673 .V41 1944-1952](#)
- [332.0673 .V41 1930-1943:V.27-49](#)
Due 6/23/2014 [request]
- [332.0673 .V41 1927-1928](#)
Due 6/23/2014 [request]

Other libraries

[Find it at other libraries via WorldCat](#)

Corporate Author: [Virginia. Bureau of Banking.](#)
Language: English.
Beginning date: 1904
Imprint: Richmond, Division of Purchase and Printing, 1905
Format: Journal/Periodical
v. tables (part fold.) 23-28 cm.
Former Title: Statements showing the condition of the incorpora
-[18th], 19-27 Annual report of the State Corpora
condition of the incorporated state banks and othe
1904-
Vol/date range: Report year irregular. From 1929 the 26th and sub
Note: 1904, 1907-09 include Statutes of Virginia regulat
1905-06 issued as supplements to the reports for
Compiled 1904-09 by the State Corporation Comr
Contributor: [Virginia. State Corporation Commission.](#)
[Virginia. State Corporation Commission. Banking D](#)
[Virginia. Bureau of Insurance and Banking.](#)
[Banks and banking > Virginia.](#)

Digitization Workflow: We Seek Permission

My colleagues and I are working on a research project on “Banking during the Great Depression” that uses data from your agency’s Annual Reports from the years 1920 to 1940.

To aid in that research, we request your permission to digitize possibly copyrighted editions of those works, to archive the digital version of the works, and to make the digital works publicly accessible.

If you agree, please indicate your permission by responding to our email and including the information below:

The [insert state name] Bank Department hereby authorizes the Stanford University Library to digitize the [insert state] state publications listed below (“the Works”); to archive and preserve the Works in a digital archive, such as the Stanford Digital Repository; and to make the Works accessible to the public through its catalog, its website, or other publicly accessible tools, without restriction.

We further authorize Stanford University Library to share the digital versions of the Works with other digital archives or institutional repositories, including, but not limited to, HathiTrust.

Digitization Workflow: Use and Reproduction Statement

Use and Reproduction Statement:

These works have been digitized and made accessible with the permission of the State. States may limit further reuse. Please contact govinfo@stanford.edu with questions about reuse or access.

The Take Down Notice

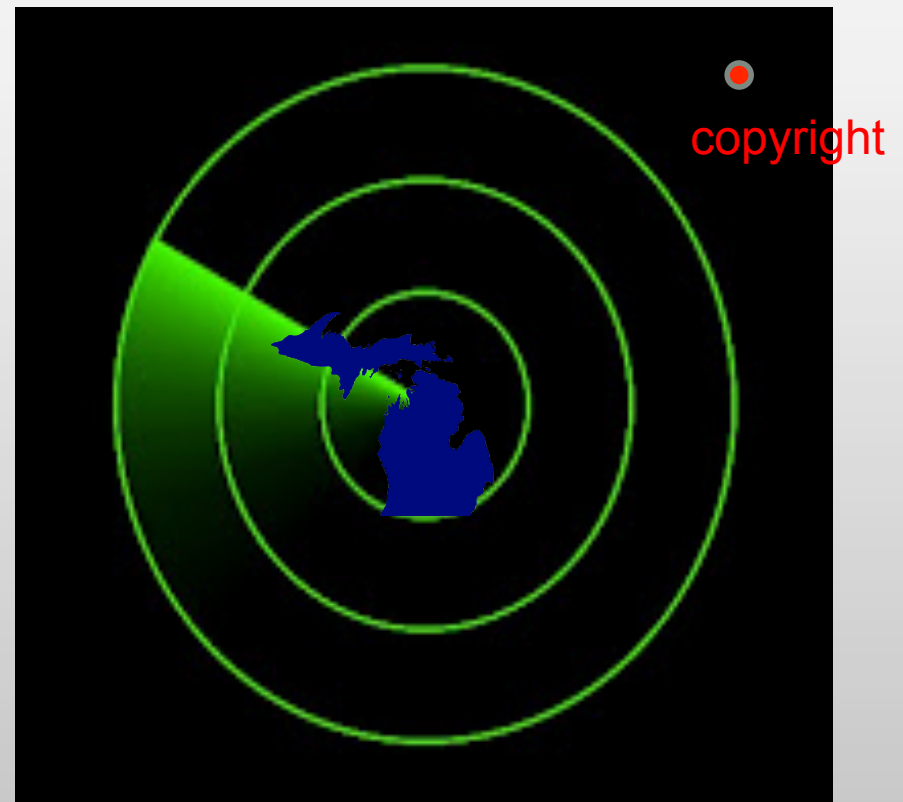
The Library has digitized its collection of California State government reports and other documents as distributed by the State Librarian. All documents are believed to be in the public domain. Anyone wishing to assert copyright of a document should contact the Administrator at (contact email).

Perspectives - State Government

Challenges

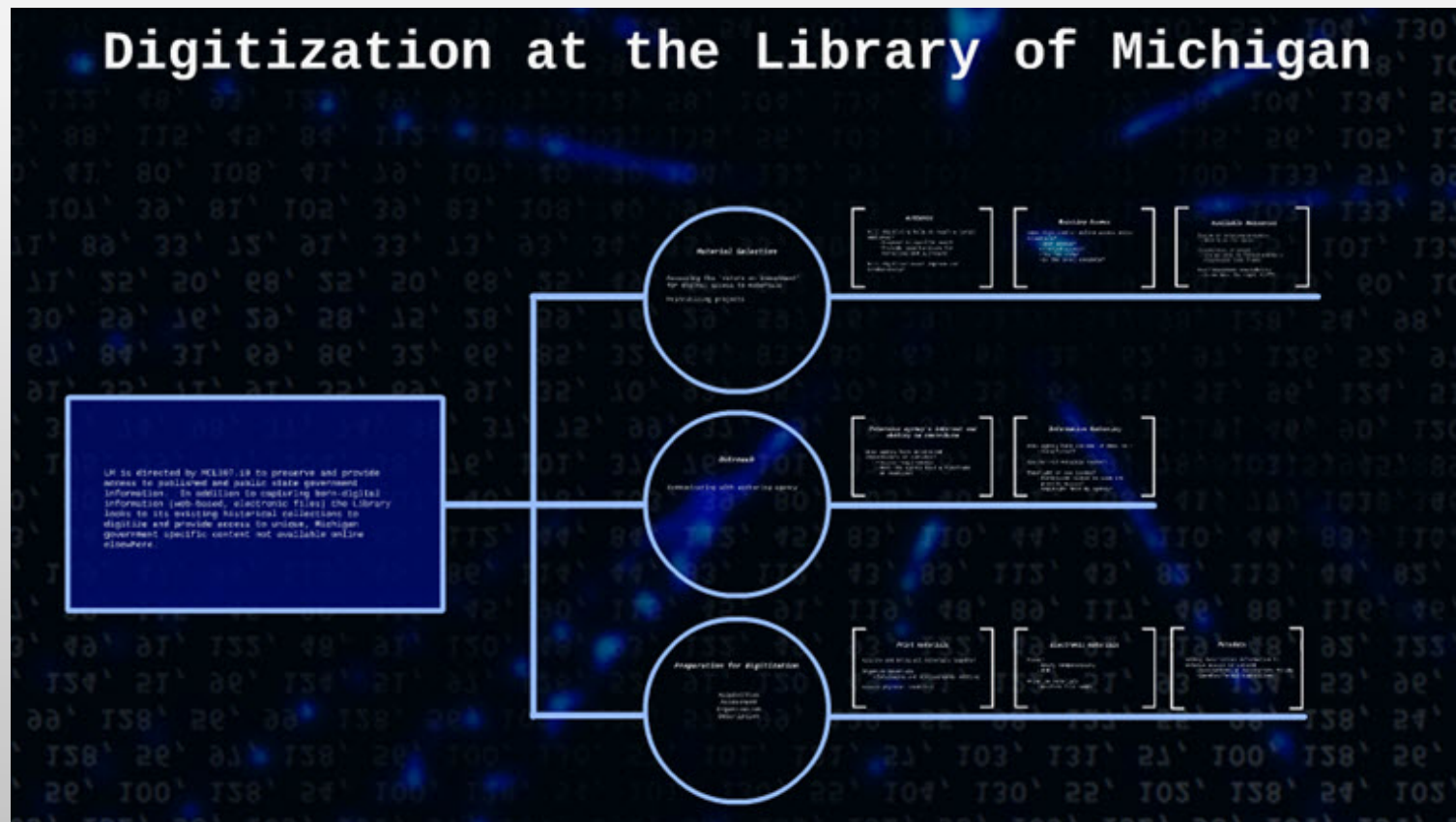
- Lack of knowledge and awareness
- Unknown or unassigned responsibility
- Low priority
- State Libraries – walking a fine line to comply with state copyright policies, but still uphold user interests and library responsibilities

Not on state government's radar



Digitization workflow – Library of Michigan

- https://prezi.com/to1qamapsz3c/edit/#78_13696309



Digitization workflow – Library of Michigan

- Where does copyright fit in?
 - Material selection
 - Audience
 - Existing access
 - Available resources
 - Outreach
 - Agency's interest/ability to contribute
 - Information gathering
 - Preparation for digitization
 - Acquisition of files/materials
 - Assessment
 - Condition, formats, readability
 - Organization
 - Description

HathiTrust Copyright Review

Basic premise

US state government documents published 1923-1977

Is there a copyright notice on this work?

If no copyright notice, is everything in the document likely produced by the state or a state agent?

Jan 2015	Feb 2015	Categories
794 (69.2%)	540 (68.8%)	PD Reviews
4 (0.3%)	7 (0.9%)	IC Reviews
350 (30.5%)	238 (30.3%)	UND/NFI Reviews
1148	785	Total Reviews*

The Copyright Review Management System (CRMS) is an IMLS National Leadership grant-funded activity. Project website

<http://www.lib.umich.edu/imls-national-leadership-grant-crms-world>

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Select Help Documentation

Can't see scan? Error message?

ID: uc1.b3023623
 Title: Directory of contractors ...
 Author: California. Contractors' State License Board.
 Pub Date: 0

View 1: HathiTrust
 View 2: Stanford Title
[Toggle View](#)

HathiTrust Options:
 Size: 50%
 View: Classic

Renewal ID:
[Get Renewal Date](#)

Rights/Reason: ?
☐ pd/ren (1) ☐ ic/ren (4)
☐ pd/cdpp (2) ☐ ic/cdpp (5)
☐ pd/hcn (3) ☐ und/nfi (6)

Notes: none

☐ Hold for Question
 Held reviews will remain unprocessed for 2 working days. It is up to you to get in touch with an expert.

About this Book

Directory of contractors ... Official directory ... v. 20 1950-51.

Creator:
California.

AttributionName:
Sacramento, Registrar of Contractors, Department of Professional and Vocational Standards

Publisher:
Sacramento, Registrar of Contractors, Department of Professional and Vocational Standards

Description:
v.23-29 cm

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Copyright: [Protected by copyright law.](#)

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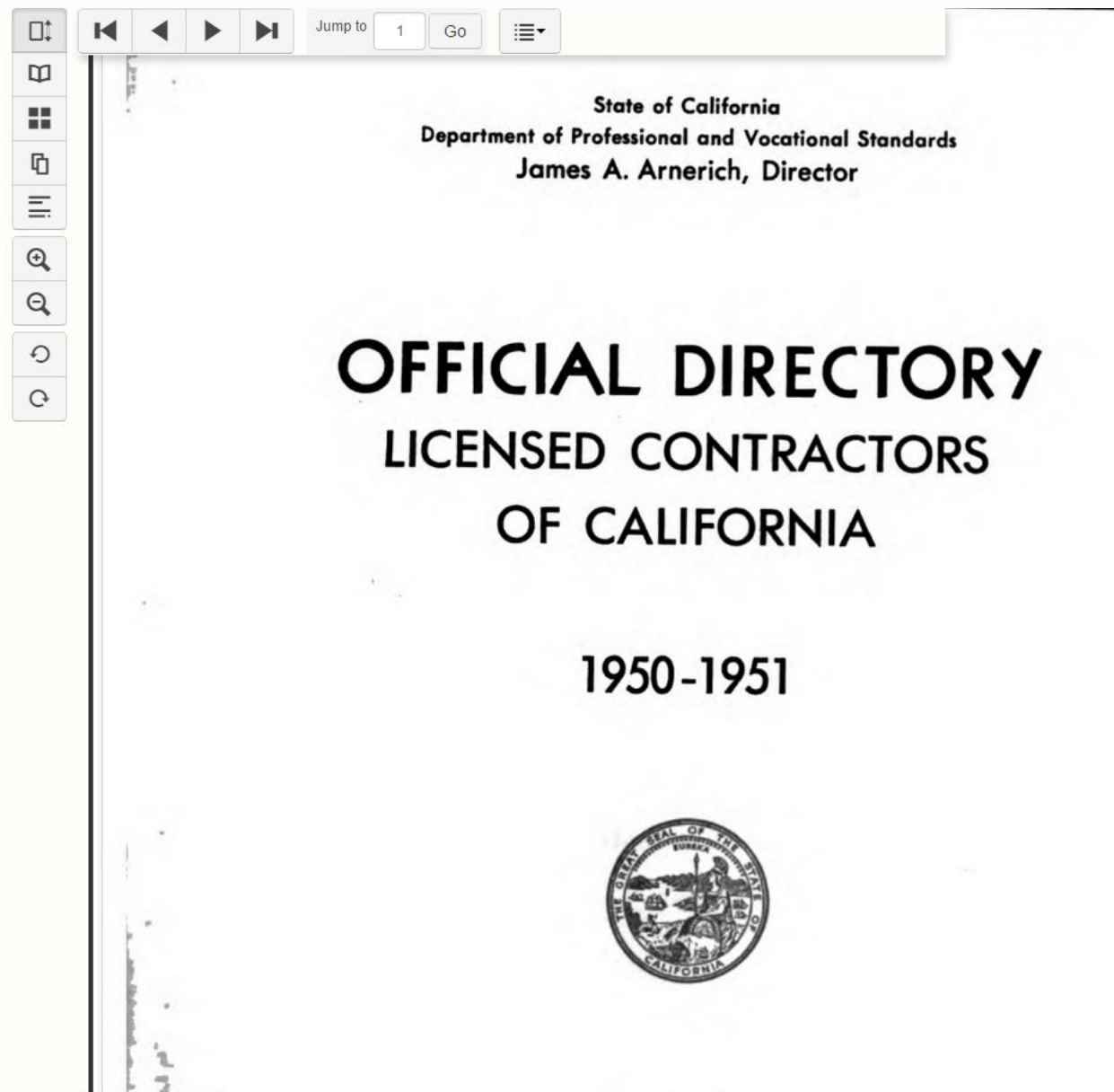
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Agreements with state agencies – Permission form

I, _____, hereby authorize the University of Michigan to produce digital copies of the above named publication (“the Work”) for its library collection and for the HathiTrust repository. In addition, I authorize the University of Michigan to make the full text of this publication available to the public in digital form via the HathiTrust repository without restrictions.

[http://www.hathitrust.org/documents/
permissions_agreement.pdf](http://www.hathitrust.org/documents/permissions_agreement.pdf)

Legislative Change – some ideas

- Explicitly refer to copyright in works created by state government agencies (rather than “Public information”).
- Simple language is best - 17 U.S. Code §105 is effective, simple language.
- State legislature could consider imposing a notice formality on state agencies – in order to claim copyright, state government document would bear a notice explicitly stating: “Copyright is claimed in this state government document,” otherwise state/state agency “shall not bring a claim for copyright infringement.” This would provide clarity to users.

North Carolina General Statute § 132.1(b)

(b) The **public records and public information** compiled by the agencies of North Carolina government or its subdivisions are the **property of the people**. Therefore, it is the policy of this State that the people **may obtain copies of their public records and public information free or at minimal cost** unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

Executive authority – potential and limitations (Michigan)

- Executive Order or Directive
 - ...regulate conduct within the executive branch of state government and attain the force and effect of law
 - ...agencies identified in an executive directive can be expected to carry out the policies of the administration as communicated in the directive to the extent its directions are consistent with applicable law...
- Administrative Law
 - Rules and Regulations
 - Lengthy process
 - Requires Legislative approval.
 - Offers the agency an opportunity to craft a policy or procedure specific to the agency's point of view
 - Attorney General Opinion
 - duty of the AG to give his opinion on all questions of law submitted by state government
 - strongly persuasive and have authority in the absence of a higher level of guidance
- Policy and Procedure
 - Standardized policies on primary state government websites
 - Ambiguous, no associated procedure
- Agency policy and procedure manuals
 - Difficult to locate
 - Fluid (appear and disappear over time)
 - May on the surface appear to conflict with general statewide policy

Executive Authority

- Some require Legislative review or approval
 - EO
 - Rules/Regulations
 - Limited authority
 - Questionable long-term viability
 - Administration change
 - Ambiguous, conflicting and fluid
- Attain the force of law
 - Executive Orders
 - Rules/Regulations
 - Strongly persuasive
 - Executive Directives
 - AG opinions
 - Policy and Procedure



Executive authority may not be the best long-term or permanent solution but could provide a path for support of more viable options as well as increasing awareness of the impact of copyright within state government..

How to participate in FSGL

- Outreach – you can do it!
 - Research – building a knowledge base
- Solutions task groups

Free State Government Information (F S G I)

Because State Gov Info Needs to be Free — in the public domain!

HOME

ABOUT

BIBLIOGRAPHY

CASE STUDIES

AFFINITY GROUPS

DISCUSSIONS

STATE COPYRIGHT CATEGORIES

GET INVOLVED!



<http://stategov.freegovinfo.info>

THANK YOU!

Q&A - Discussion