

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 609**

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**Introduced by Assembly Member Nestande**  
*(Coauthors: Assembly Members Beth Gaines, Maienschein, and Olsen)*

February 20, 2013

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An act to add Chapter 2.5 (commencing with Section 13989) to Part 4.5 of Division 3 of Title 2 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Nestande. State-funded research.

Existing law authorizes the Department of General Services to carry out various powers and duties relating to assisting a state agency in the management and development of intellectual property developed by state employees or with state funding, including, among other duties, developing a database of state-owned intellectual property using specified data.

Existing law authorizes state agencies and departments to, upon request, share records and information related to intellectual property generated by state employees or with state funding with the department. Existing law also imposes certain restrictions on employees and former employees of the department with respect to divulging certain information provided by state agencies and departments regarding intellectual property.

This bill would enact the California Taxpayer Access to Publicly Funded Research Act. The bill, notwithstanding any other law, would require a state agency that provides *grant* funding ~~for~~ *resulting directly*

~~in research resulting directly from proscribed grants from state agency funding for the purpose of specific research undertaking~~ *undertakings* to develop a public access policy. The bill would require the public access policy to, among other things, include a requirement that electronic versions of final manuscripts *or a specified link to an electronic version* of original research papers accepted for publication ~~to~~ be submitted to the state agency *and the California State Library*, and *to* provide free online public access to ~~such~~ *those* final peer-reviewed manuscripts or published versions, as specified.

This bill would, until January 1, 2018, require, not later than December 1, that each state agency ~~to~~ submit an annual report on the state agency’s public access policy to the Governor, the Senate Committee on Rules, and the Speaker of the Assembly.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 2.5 (commencing with Section 13989)  
2 is added to Part 4.5 of Division 3 of Title 2 of the Government  
3 Code, to read:

4  
5 CHAPTER 2.5. STATE-FUNDED RESEARCH  
6

7 13989. This act shall be known and may be cited as the  
8 California Taxpayer Access to Publicly Funded Research Act.

9 13989.2. For purposes of this chapter, the following definitions  
10 shall apply:

11 (a) “State agency” shall mean an entity within the executive  
12 branch, including, but not limited to, all departments, boards,  
13 bureaus, commissions, councils, and offices.

14 (b) “Direct research” shall mean research resulting directly from  
15 ~~proscribed grants from state agency funding for the purpose of~~  
16 specific research undertakings.

17 (c) “Policy” shall mean the public access policy established  
18 pursuant to ~~subdivision (b)~~ *Section 13989.4*.

19 13989.4. (a) Notwithstanding any other law, each state agency  
20 that provides funding *in the form of a research grant to a grantee*  
21 for direct research shall develop a public access policy that shall  
22 do the following:

1 (1) Include a requirement that electronic versions of the author's  
2 final manuscripts, *or a link to an electronic version of the author's*  
3 *final manuscript in an open access digital repository* of original  
4 research papers that have been accepted for publication in  
5 peer-reviewed journals and result from research supported from  
6 state agency funding, be submitted to the funding state agency *and*  
7 *the California State Library*.

8 (2) Provide free online public access to such final peer-reviewed  
9 manuscripts or published versions as soon as practicable, but not  
10 later than six months after publication in peer-reviewed journals.

11 (3) To the extent in compliance with copyright or patent  
12 protection, produce an online bibliography of all research papers  
13 that are publicly accessible under the policy, with each entry linked  
14 to the corresponding free online full text. *The California State*  
15 *Library shall produce and maintain the online bibliography under*  
16 *this paragraph*.

17 (4) Provide for the long-term preservation of, and free access  
18 to, published research findings in a stable digital repository  
19 maintained by the ~~state agency~~ *California State Library* or in any  
20 repository determined by the ~~state agency~~ *California State Library*  
21 to meet these conditions.

22 (5) Be developed in conjunction with any other state agencies  
23 that provide funding for direct research or that underwrite the cost  
24 of facilities, equipment, hardware, information resources,  
25 personnel, or otherwise fiscally support direct research.

26 (6) *Authorize the use of grant money for publication costs, which*  
27 *include fees charged by a publisher, including, but not limited to,*  
28 *color and page charges, or fees for digital distribution*.

29 (b) The policy described in subdivision (a) shall exclude all of  
30 the following:

31 (1) Research progress reports presented at professional meetings  
32 or conferences.

33 (2) Laboratory notes, preliminary data analyses, notes of the  
34 author, phone logs, or other information used to produce the final  
35 manuscript.

36 (3) Classified research, research resulting in works that generate  
37 revenue or royalties for the authors, or patentable discoveries, to  
38 the extent necessary to comply with copyright or patent protections.

39 (4) Authors who do not submit their work to a peer-reviewed  
40 journal or works that are rejected for publication in such journals.

1 (5) State-funded research *grants* entered into pursuant to a  
2 contract prior to the effective date of this chapter where the terms  
3 and conditions of that contract prohibit the public dissemination  
4 of the research *or are otherwise in conflict with the provisions of*  
5 *this chapter.*

6 (6) Any data, *including supplemental data*, that has the potential  
7 to reveal a person’s identity.

8 13989.6. (a) Not later than December 1, annually, each state  
9 agency shall submit a report on the state agency’s policy to the  
10 Governor, the Senate Committee on Rules, and the Speaker of the  
11 Assembly.

12 (b) The report shall include, but not be limited to, all of the  
13 following:

14 (1) A statement of the effectiveness of the policy in providing  
15 the public with free online access to papers on research funded by  
16 ~~such~~ *the state* agency.

17 (2) A list of papers published in peer-reviewed journals that  
18 report on research funded by ~~such~~ *the state* agency.

19 (3) A corresponding list of papers made available by the state  
20 agency as a result of this act.

21 (c) (1) A report to the Legislature pursuant to this section; shall  
22 be submitted in compliance with Section 9795.

23 (2) This section shall become inoperative on January 1, 2018,  
24 pursuant to Section 10231.5.