

AMENDED IN ASSEMBLY APRIL 23, 2013

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 resulting directly in research for the purpose of specific research 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 be submitted to the state agency and the California State Library, and to provide free online public access to 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 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. *Neither the University  
14 of California, nor the California State University, is included in  
15 the definition of state agency.*

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

19 (c) “Policy” shall mean the public access policy established  
20 pursuant to Section 13989.4.

1 13989.4. (a) Notwithstanding any other law, each state agency  
2 that provides funding in the form of a research grant to a grantee  
3 for direct research shall develop a public access policy that shall  
4 do the following:

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

12 (2) Provide free online public access to such final peer-reviewed  
13 manuscripts or published versions as soon as practicable, but not  
14 later than ~~six~~ 12 months after publication in peer-reviewed journals.

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

21 (4) Provide for the long-term preservation of, and free access  
22 to, published research findings in a stable digital repository  
23 maintained by the California State Library or in any repository  
24 determined by the California State Library to meet these conditions.

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

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

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

34 (1) Research progress reports presented at professional meetings  
35 or conferences.

36 (2) Laboratory notes, preliminary data analyses, notes of the  
37 author, phone logs, or other information used to produce the final  
38 manuscript.

- 1 (3) Classified research, research resulting in works that generate  
2 revenue or royalties for the authors, or patentable discoveries, to  
3 the extent necessary to comply with copyright or patent protections.
- 4 (4) Authors who do not submit their work to a peer-reviewed  
5 journal or works that are rejected for publication in such journals.
- 6 (5) State-funded research grants entered into pursuant to a  
7 contract prior to the effective date of this chapter where the terms  
8 and conditions of that contract prohibit the public dissemination  
9 of the research or are otherwise in conflict with the provisions of  
10 this chapter.
- 11 (6) Any data, including supplemental data, that has the potential  
12 to reveal a person's identity.
- 13 13989.6. (a) Not later than December 1, annually, each state  
14 agency shall submit a report on the state agency's policy to the  
15 Governor, the Senate Committee on Rules, and the Speaker of the  
16 Assembly.
- 17 (b) The report shall include, but not be limited to, all of the  
18 following:
- 19 (1) A statement of the effectiveness of the policy in providing  
20 the public with free online access to papers on research funded by  
21 the state agency.
- 22 (2) A list of papers published in peer-reviewed journals that  
23 report on research funded by the state agency.
- 24 (3) A corresponding list of papers made available by the state  
25 agency as a result of this act.
- 26 (c) (1) A report to the Legislature pursuant to this section shall  
27 be submitted in compliance with Section 9795.
- 28 (2) This section shall become inoperative on January 1, 2018,  
29 pursuant to Section 10231.5.