

AMENDED IN SENATE JUNE 11, 2014  
AMENDED IN SENATE JUNE 4, 2014  
AMENDED IN SENATE JUNE 2, 2014  
AMENDED IN SENATE JUNE 18, 2013  
AMENDED IN ASSEMBLY MAY 28, 2013  
AMENDED IN ASSEMBLY MAY 9, 2013  
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 Members Nestande and Gatto**  
**(Coauthors: Assembly Members Beth Gaines, Maienschein, Olsen,**  
**and Skinner)**  
(Coauthor: Senator Hill)

February 20, 2013

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

### LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Nestande. State-funded ~~research~~ *research*: *State Department of Public Health*.

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.

*Existing law requires the State Department of Public Health to issue research grants for various purposes, including cancer research, vaccines, and spinal cord injuries.*

This bill would enact, until January 1, 2020, the California Taxpayer Access to Publicly Funded Research Act. The bill would establish publication requirements for a grantee receiving funding, in whole or in part, in the form of a research grant from ~~a state agency~~ *the State Department of Public Health*. The bill would require ~~a state agency providing funding in the form of a research grant~~ *the department* to include specified terms and conditions *in a research grant* that are required to be adhered to as a condition of the grantee receiving the research grant. The bill would require the grantee to provide for public access to any publication of ~~a state agency-funded~~ *department-funded* invention or ~~state agency-funded~~ *department-funded* technology, as specified, including ~~submitting an~~ *ensuring that* electronic version of the peer-reviewed manuscript *is available* to the ~~state agency or to department~~ *on an appropriate publicly accessible database approved by the state agency department*, to be made publicly available not later than 12 months after the official date of ~~publication, except as specified~~ *publication*. The bill would provide that this act does not apply to a grantee that receives funding from ~~a state agency that has the department~~ *if there is an existing publication requirement that meets or exceeds the requirements of this bill and that the provisions do not apply to research grants issued prior to January 1, 2015.*

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

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

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

CHAPTER 2.5. STATE-FUNDED RESEARCH

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

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

(a) *“Department” means the State Department of Public Health.*

~~(a)~~

(b) *“Peer-reviewed manuscript” means a manuscript after it has been peer reviewed and in the form in which it has been accepted for publication in a scientific journal.*

~~(b) “State agency” has the same meaning as defined in Section 10295.1 of the Public Contract Code.~~

(c) *“Research grant” means a grant to a researcher that is provided in whole or in part by the State Department of Public Health.*

13989.4. ~~(a)~~ The Legislature finds and declares all of the following:

~~(1)~~

(a) The state is home to many of the world’s top research universities, national laboratories, and leading-edge high-technology companies that generate significant intellectual property.

~~(2)~~

(b) It is in the interest of the state to ensure that the results of ~~state-funded health sciences research funded by the department~~ are promptly developed and protected and to ensure free public Internet access to the results, where appropriate.

~~(3)~~

(c) The expansion of innovation with the investment of taxpayer dollars in the form of publicly funded grants could generate public benefit, including, but not limited to, reinvestment in research, development of new innovations, and jobs created from these types of research.

~~(b) It is the intent of the Legislature that any grantee who receives funding in the form of a research grant from a state agency abide by the publication requirements outlined in subdivisions (a) to (d), inclusive, of Section 100303 of Title 17 of the California Code of Regulations, as amended on March 21, 2013, and in effect on July 1, 2013.~~

13989.6. (a) (1) ~~Any~~A grantee that receives funding, in whole or in part, in the form of a research grant from a state agency ~~the department~~ shall provide for free public access to any publication of a ~~state agency-funded department-funded~~ invention or ~~state agency-funded department-funded~~ technology, as provided in this section.

(2) ~~A state agency that~~When the department provides funding, in whole or in part, in the form of a research grant, ~~the research grant~~ shall include the following terms and conditions ~~in the research grant~~ that are required to be adhered to by the grantee as a condition of receiving the research grant:

~~(A) Pursuant to subdivision (b), grantees may provide data to the state agency to request that the 12-month time period be extended to 18 months.~~

~~(B)~~

(A) Grantees are responsible for ensuring that any publishing or copyright agreements concerning submitted ~~articles~~ manuscripts fully comply with this section.

~~(C)~~

(B) Grantees shall report to the ~~state agency~~ department the final disposition of the research grant, ~~such as, including~~, but not limited to, if it was published, when it was published, where it was published, when the 12-month time period ~~that may be extended by 18 months pursuant to subdivision (b)~~ expires, and where the manuscript will be available for open access.

~~(D) State agencies~~

(C) The department shall retain information regarding all issued research grants that resulted in published works.

(b) For ~~any~~ a manuscript that is accepted for publication in a peer-reviewed journal, pursuant to the terms and conditions of the research grant, the grantee shall ~~submit~~ ensure that an electronic version of the peer-reviewed manuscript is available to the ~~state agency or to department~~ and on an appropriate publicly accessible database approved by the ~~state agency, department~~, including, but

not limited to, the University of California's eScholarship Repository at the California Digital Library, PubMed Central, or the California Digital Open Source Library, to be made publicly available not later than 12 months after the official date of publication. ~~If the grantee provides data to the state agency showing there is a more appropriate time period for that field of study, the grantee may request that the not later than 12-month time period be extended to 18 months.~~ Manuscripts submitted to the California Digital Open Source Library shall be exempt from the requirements in subdivision (b) of Section 66408 of the Education Code. The grantee shall make reasonable efforts to comply with this requirement ~~through submission of the manuscript to an~~ by *ensuring that their manuscript is accessible on an* approved publicly accessible database, including notifying the ~~state agency of submission~~ *department that the manuscript is available on a department-approved database.* If the grantee is unable to ~~submit~~ *the ensure that their manuscript to is accessible on* an approved publicly accessible database, the grantee may comply by providing the manuscript to the ~~state agency, department~~ not later than 12 months after the official date of publication. ~~In lieu of the peer-reviewed manuscript, the grantee may submit the final published article.~~

(c) For publications other than those described in subdivision (b), including meeting abstracts, the grantee shall comply by providing the manuscript to the ~~state agency department~~ not later than 12 months after the official date of publication.

(d) (1) Grantees are responsible for ensuring that ~~any~~ publishing or copyright agreements concerning submitted articles fully comply with this section.

(2) Nothing in this chapter shall be construed to authorize ~~any~~ use of a peer-reviewed manuscript that would constitute an infringement of copyright under the federal copyright law described in Section 101 of Title 17 of the United States Code and following.

(e) Grantees are authorized to use grant money for publication costs, including fees charged by a publisher for color and page charges, or fees for digital distribution.

(f) This chapter shall not apply to a grantee that receives funding ~~from a state agency that has for which there is~~ an existing publication requirement that meets or exceeds the requirements of this section, on or before the effective date of this chapter.

1     (g) *This chapter shall not apply to research grants issued prior*  
2 *to January 1, 2015.*  
3     13989.8. This chapter shall remain in effect only until January  
4 1, 2020, and as of that date is repealed, unless a later enacted  
5 statute, that is enacted before January 1, 2020, deletes or extends  
6 that date.

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