

**Assembly Bill No. 609**

**CHAPTER 789**

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 public health.

[ Approved by Governor September 29, 2014. Filed with Secretary of State September 29, 2014. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 609, Nestande. State-funded 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 the State Department of Public Health. The bill would require 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 department-funded invention or department-funded technology, as specified, including ensuring that electronic version of the peer-reviewed manuscript is available to the department on an appropriate publicly accessible database approved by the department, to be made publicly available not later than 12 months after the official date of publication. The bill would provide that this act does not apply to a grantee that receives funding from 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:

(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.

(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.** The Legislature finds and declares all of the following:

(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.

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

(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.

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

(2) 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 that are required to be adhered to by the grantee as a condition of receiving the research grant:

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

(B) Grantees shall report to the department the final disposition of the research grant, including, but not limited to, if it was published, when it was published, where it was published, when the 12-month time period expires, and where the manuscript will be available for open access.

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

(b) For 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 ensure that an electronic version of the peer-reviewed manuscript is available to the department and on an appropriate publicly accessible database approved by the 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. 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 by ensuring that their manuscript is accessible on an approved publicly accessible database, including notifying the department that the manuscript is available on a department-approved database. If the grantee is unable to ensure that their manuscript is accessible on an approved publicly accessible database, the grantee may comply by providing the manuscript to the department not later than 12 months after the official date of publication.

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

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

(2) Nothing in this chapter shall be construed to authorize 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 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.

(g) This chapter shall not apply to research grants issued prior to January 1, 2015.

**13989.8.** This chapter shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a

later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.