

ACCESS TO CONGRESSIONALLY MANDATED REPORTS ACT

SEPTEMBER 10, 2012.—Ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 1974]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1974) to require the Public Printer to establish and maintain a website accessible to the public that allows the public to obtain electronic copies of all congressionally mandated reports in one place, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Page 6, line 17, insert “, with the exception of technical changes,” after “changed or removed”.

COMMITTEE STATEMENT AND VIEWS

Purpose and Summary

The Committee has long been concerned with enhancing the transparency of the Federal Government, particularly by requiring the publication of Federal information online. H.R. 1974, the Access to Congressionally Mandate Reports Act (ACMRA) would require the Government Printing Office (GPO) to establish and maintain a public website that would allow the public, for the first time, to obtain electronic copies of all congressionally mandated reports.

Under ACMRA, the reports would be compiled on GPO's website in a machine-readable, bulk-downloadable format and made available no later than 30 days after they are due to Congress. The reports would be searchable based on their content, reporting agency, and other data. The website would include a mechanism to display which reports are submitted on time, which are submitted late, and which are not submitted at all.

Most executive, legislative, and judicial branch agencies would be required to publish their reports on GPO's website, subject to guidance issued by the Office of Management and Budget (OMB). Agencies would be deemed to have complied with the statutory requirement to submit a report to Congress after publishing the report on the website and notifying the Clerk of the House, the Secretary of the Senate, and the appropriate Congressional committees. ACMRA contains exceptions for records that are exempt from public disclosure and protects information that may not be publicly released under the Freedom of Information Act.

Background and Need for Legislation

Congressionally mandated reports contain a wealth of information about the Federal Government's activities, plans, challenges, and compliance with various mandates. This information, if made public, would enable Americans to better understand how well Federal agencies are (or are not) fulfilling their respective missions, from ensuring the safety of our food and drug supply, to protecting the environment, to monitoring the soundness of our financial institutions.¹

The rules of the House require the House Clerk to compile a "list of reports which it is the duty of any officer or Department to make to Congress." This list ran to 224 pages for the 112th Congress. There is currently no systematic requirement for congressionally mandated reports to be provided to the public, nor is there any means of public access.

ACMRA would provide full public transparency and comprehensive access for congressionally mandated reports by requiring GPO to establish a website to host them and requiring agencies to submit them to that website. GPO already has the necessary infrastructure to comply with ACMRA. Since 1994, GPO has provided no-fee permanent public access to comprehensive digital collections of congressional information on its Federal Digital System

¹ Representative Quigley press release, June 22, 2011, available at http://quigley.house.gov/index.php?option=com_content&view=article&id=505:quigley-cummings-transparency-bill-passes-house-committee&catid=19:2011-press-releases.

(FDsys).² ACMRA’s publishing requirement complements GPO’s mission to “Keep America Informed.”

Legislative History

Representative Dreihaus introduced the Access to Congressionally Mandated Reports Act of 2010 as H.R. 6026 on July 7, 2010. H.R. 6026 was referred to the Committee on Oversight and Government Reform on July 30, 2010. H.R. 6026 would have required the Office of Management and Budget to establish a single website to publish electronic copies of congressionally mandated reports. Then-Ranking Member Issa raised concerns about OMB’s proposed role. The 111th Congress took no further action on ACMRA.

In the 112th Congress, Representative Quigley revised ACMRA, accommodating Representative Issa’s concerns and incorporating comments by organizations supporting government transparency. Representative Quigley introduced the bill as H.R. 1974 on May 24, 2011. H.R. 1974 replaced OMB as custodian of the congressionally mandated reports website with the GPO, a legislative branch agency. H.R. 1974 also strengthened the bill’s requirement for agencies to report in a timely manner and added provisions ensuring state-of-the-art technology. H.R. 1974 was referred to the Committee on Oversight and Government Reform and the Committee on House Administration. The Oversight Committee unanimously ordered reported H.R. 1974 at a business meeting on June 22, 2011.

On July 25, 2011, Senator Lieberman introduced companion legislation, S. 1411, in the Senate. S. 1411 was referred to the Committee on Rules and Administration.

SECTION-BY-SECTION

Section 1. Short title

Stipulates that the Act may be cited as the “Access to Congressionally Mandated Reports Act.”

Section 2. Establishment of website for congressionally mandated reports

Requires the Government Printing Office to establish and maintain a website where the public can search, sort and download all congressionally mandated reports for free. The reports must be available within 30 days of being submitted to Congress and searchable by title, reporting agency, publication date, receiving committee, and other data. The website must also list which reports were submitted on time, late, and not at all.

Section 3. Federal agency responsibilities

Requires the head of each agency to publish the agency’s reports on the website established under Section 2, in an open format that is machine readable. Reports must be submitted without restrictions on access and re-use. Also requires the Office of Management and Budget (OMB) to issue guidance to assist agencies in implementation.

²Letter from GPO to Mike Quigley, May 9, 2011.

Section 4. Relationship to requirements to submit reports to Congress

Provides that each agency will be deemed to have complied with a statutory requirement to submit any congressionally mandated report after it has published a complete and unredacted copy on the website established under Section 2 and has notified the Clerk of the House, the Secretary of the Senate, and each receiving congressional committee. It also provides that once a report has been published it may only be changed or removed with the consent of each receiving congressional committee.

Section 5. Relationship to Freedom of Information Act

Prevents the Act from being construed to require the disclosure of information exempt from public disclosure under the Freedom of Information Act (FOIA). Requires agencies to redact information that may not be publicly released, indicate where redactions were made, and identify the relevant FOIA exemption.

Section 6. Definitions

Defines “congressionally mandated report” to mean “a report that is required to be submitted to either house of Congress or any committee of Congress by statute or by a conference report that accompanies legislation signed into law.” It defines “Federal agency” using the meaning in Section 102 of title 40, United States Code, which includes an executive agency or an establishment in the legislative or judicial branch, except the Senate, the House, and the Architect of the Capitol. It also exempts the Government Accountability Office.

Section 7. Implementation

The website and other provisions of the bill must be implemented within one year after the date of enactment of the Act.

EXPLANATION OF AMENDMENTS

Mr. Quigley offered an amendment allowing agencies to make technical changes to reports after they are posted on the publicly accessible website required under the bill. It was accepted by voice vote.

COMMITTEE CONSIDERATION

On June 22, 2011, the Committee met in open session and ordered reported favorably the bill, H.R. 1974 as amended, by voice vote, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill requires the Government Printing Office (GPO) to establish and maintain a public website that would allow the public, for the first time, to obtain electronic copies of all congressionally mandated reports. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 1974 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1974. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1974 from the Director of Congressional Budget Office:

JULY 7, 2011.

Hon. DARRELL ISSA,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1974, the Access to Congressionally Mandated Reports Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1974—Access to Congressionally Mandated Reports Act

H.R. 1974 would require the Government Printing Office (GPO) to establish and maintain a Web site that would allow the public to obtain electronic copies of all Congressionally mandated reports. Most executive, legislative, and judicial branch agencies would be required to provide GPO with their reports and notify the Clerk of the House and the Secretary of the Senate, as well as the appropriate Congressional committee, when the report is available on the Internet.

Based on information from GPO and other agencies that produce Congressionally mandated reports, CBO expects that complying with the bill's provisions would increase administrative costs to GPO to store and maintain the reports and to agencies to provide them. Based on information provided by those agencies, CBO estimates that in total implementing the bill would cost less than \$500,000 annually, assuming the availability of appropriated funds.

Pay-as-you-go procedures apply to the bill because it would affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and Bonneville Power Administration. Such agencies would face some additional costs, but CBO estimates that any net increase in direct spending would not be significant. Enacting the legislation would not affect revenues.

H.R. 1974 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.