

The Fair Copyright in Research Works Act

Champions for open access are experiencing déjà vu over the reintroduction of a bill that seeks to amend copyright code and create a new category of copyrighted work.

The “new” bill—H.R. 801, “The Fair Copyright in Research Works Act”—was recently introduced to the U.S. House of Representatives and the 111th Congress by Rep. John Conyers (MI-14).

Yet, the only difference between H.R. 801 and its 110th predecessor, H.R. 6845, is the bill number. H.R. 6845, also introduced by Conyers, ultimately died in the House Judiciary Committee, but Conyers—apparently undismayed and undeterred—has resuscitated the bill.

A word-for-word replica of the 110th bill, H.R. 801 would reverse the NIH Public Access Policy, which grants millions of Americans access to vital health care information through the National Library of Medicine’s PubMed Central database. According to the Scholarly Publishing and Academic Resources Coalition (SPARC), under the current policy, nearly 3,000 new biomedical manuscripts resulting from National Institute of Health (NIH) taxpayer-funded research are deposited for public accessibility each month. Each manuscript is deposited within 12 months after the publication date, as the NIH Public Access Policy adheres to the agreed upon 12-month embargo period.

H.R. 801 would prohibit the deposit of these manuscripts, seriously impeding the ability of researchers, physicians, health care professionals, and families to access and use this critical health-related information in a timely manner.

Following the reintroduction of the bill, SPARC is encouraging outreach, urging libraries, researchers, campus administrators, patient advocates, and others to voice support for public access to federally funded research and opposition to the bill, citing the following concerns that H.R. 801 would:

1. Prohibit all U.S. federal agencies from conditioning funding agreements to require that

works resulting from federal support be made publicly available if those works are either a) funded in part by sources other than a U.S. agency or b) the result of “meaningful added value” to the work from an entity that is not party to the agreement.

2. Prohibit U.S. agencies from obtaining a license to publicly distribute, perform, or display such work by, for example, placing it on the Internet.

3. Stifle access to a broad range of federally funded works, overturning the crucially important NIH Public Access Policy and preventing other agencies from implementing similar policies.

4. Because it is so broadly framed, the proposed bill would require an overhaul of the well-established procurement rules in effect for all federal agencies, and could disrupt day-to-day procurement practices across the federal government.

5. Repeal the longstanding “federal purpose” doctrine, under which all federal agencies that fund the creation of a copyrighted work reserve the “royalty-free, nonexclusive right to reproduce, publish, or otherwise use the work” for any federal purpose. This will severely limit the ability of U.S. federal agencies to use works that they have funded to support and fulfill agency missions and to communicate with and educate the public.

In the coming weeks and months, the ALA Washington Office, along with ACRL, will be closely monitoring the bill’s activity and will engage library advocacy networks at critical points in the bill’s life.

The bill is the same, as is the message of those in the library community and those who champion open access to information (especially taxpayer-funded health-related research). With any luck, this pattern will continue, and the new version will meet the same fate the old bill met in the 110th Congress.

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