WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 353

(By Mr. Brotheron and
Mr. Cackigan)

PASSED...........March 11, 1971

In Effect...........From Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-1-71
AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five, relating to making the purchasing practices and procedures commission a statutory body; relating to its composition and its general powers, duties and responsibilities; specifically authorizing the commission to sit during any recess of the Senate and House of Delegates; granting the commission the power and authority to subpoena and compel the attendance of witnesses and the production of books, records, documents, papers and any other tangible thing; authorizing judicial enforcement of any subpoena
issued by the commission; and relating to the compensation and expenses of members of the commission and all expenses of the commission.

Be it enacted by the Legislature of West Virginia:

That chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five, to read as follows:

ARTICLE 5. PURCHASING PRACTICES AND PROCEDURES COMMISSION.

§4-5-1. Commission continued as statutory body; composition; appointment and terms of members.

1 The purchasing practices and procedures commission, heretofore existing under a concurrent resolution of the Senate and House of Delegates, is hereby continued as a statutory body. The commission shall continue to be composed of five members of the Senate, to be appointed by the president thereof, no more than three of whom shall be appointed from the same political party, and five members of the House of Delegates, to be appointed by the speaker thereof, no more than three of whom shall be appointed from the same political party. The commission
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shall be headed by two cochairmen, one to be selected
by and from the members appointed from the Senate,
and one to be selected by and from the members ap-
pointed from the House of Delegates. All members of
the commission shall serve until their successors shall
have been appointed as heretofore provided.

§4-5-2. Powers and duties generally.

1. The purchasing practices and procedures commission
shall have the power, duty and responsibility to:

2. (1) Conduct a comprehensive and detailed investiga-
tion into the purchasing practices and procedures of the
state;

3. (2) Determine if there is reason to believe that the
laws or public policy of the state in connection with pur-
chasing practices and procedures have been violated or
are inadequate;

4. (3) Determine if any criminal or civil statutes relating
to the purchasing practices and procedures in this state
are necessary to protect and control the expenditures of
money by the state;

5. (4) Determine whether to recommend (a) criminal
prosecution for any violations of law or (b) the institution of any civil action for the recoupment of moneys paid to vendors in violation of law or (c) both such criminal prosecution and civil action; and

(5) Make such written reports to the members of the Legislature between sessions thereof as the commission may deem advisable and on the first day of each regular session of the Legislature make an annual report to the Legislature containing the commission's findings and recommendations including in such report drafts of any proposed legislation which it deems necessary to carry such recommendations into effect.

The commission is also expressly empowered and authorized to:

(1) Sit during any recess of the Senate and House of Delegates;

(2) Recommend to the judge of any circuit court or of any court of record having criminal jurisdiction that a grand jury be convened pursuant to the provisions of section fourteen, article two, chapter fifty-two of this code, to consider any matter which the commission may
deem in the public interest, and in support thereof make available to such court and such grand jury the contents of any reports, files, transcripts of hearings or other evidence pertinent thereto;

(3) Employ such legal, technical, investigative, clerical, stenographic, advisory and other personnel as it deems needed and, within the appropriation herein specified, fix reasonable compensation of such persons and firms as may be employed;

(4) Consult and confer with all persons and agencies, public (whether federal, state or local) and private, that have information and data pertinent to an investigation; and all state and local governmental personnel and agencies shall cooperate to the fullest extent with the commission; and

(5) Call upon any department or agency of state or local government for such services, information and assistance as it may deem advisable.

§4-5-3. Executive sessions; hearings; subpoena power; enforcement provisions.

1. The commission shall have the power and authority to hold executive sessions for the purpose of establishing
business, policy, an agenda and the interrogation of a wit-
ness or witnesses: Provided, That if a witness desires a
public or open hearing he shall have the right to de-
mand the same and shall not be heard otherwise: Pro-
vided, however, That if a witness desires a hearing in
an executive session, he shall have the right to demand
the same and shall not be heard otherwise. However,
members of the staff of the commission may be per-
mitted to attend executive sessions with permission of
the commission.

The commission is hereby empowered and authorized
to examine witnesses and to subpoena such persons and
books, records, documents, papers or any other tangible
things as it believes should be examined to make a com-
plete investigation. All witnesses appearing before the
commission shall testify under oath or affirmation, and
any member of the commission may administer oaths or
affirmations to such witnesses. To compel the attendance
of witnesses at such hearings or the production of any
books, records, documents, papers or any other tangible
thing, the commission is hereby empowered and autho-
rized to issue subpoenas, signed by one of the cochair-
men, in accordance with section five, article one, chapter
four of this code. Such subpoenas shall be served by
any person authorized by law to serve and execute legal
process and service shall be made without charge. Wit-
nesses subpoenaed to attend hearings shall be allowed
the same mileage and per diem as is allowed witnesses
before any petit jury in this state.

If any person subpoenaed to appear at any hearing
shall refuse to appear or to answer inquiries there pro-
pounded, or shall fail or refuse to produce books, records,
documents, papers or any other tangible thing within his
control when the same are demanded, the commission
shall report the facts to the circuit court of Kanawha
county or any other court of competent jurisdiction and
such court may compel obedience to the subpoena as
though such subpoena had been issued by such court in
the first instance.

§4-5-4. Compensation and expenses of members; other ex-
penses; how paid; joint committee approval.

The members of the commission shall receive travel,
interim and out-of-state expenses, as authorized in sections six, eight and nine, article two-a, chapter four of this code. Such expenses and all other expenses including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel shall be paid from the appropriation under “Account No. 103 for Joint Expenses,” but no expense of any kind whatever shall be incurred unless the approval of the joint committee on government and finance therefor is first had and obtained by the commission.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 1st day of April, 1971.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/17/71
Time 11:50 a.m.

RECEIVED

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OFFICE OF STATE SECRETARY OF STATE
STATE OF WEST VIRGINIA