

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 353

(By Mr. BROTHERTON AND)  
MR. CARRIGAN

PASSED MARCH 11 1971

In Effect FROM Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE

THIS DATE 4-2-71

353

**ENROLLED**

**Senate Bill No. 353**

(By MR. BROTHERTON and MR. CARRIGAN)

---

[Passed March 11, 1971; in effect from passage.]

---

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,  
2 heretofore existing under a concurrent resolution of the  
3 Senate and House of Delegates, is hereby continued as a  
4 statutory body. The commission shall continue to be  
5 composed of five members of the Senate, to be appointed  
6 by the president thereof, no more than three of whom  
7 shall be appointed from the same political party, and five  
8 members of the House of Delegates, to be appointed by  
9 the speaker thereof, no more than three of whom shall be  
10 appointed from the same political party. The commission

11 shall be headed by two cochairmen, one to be selected  
12 by and from the members appointed from the Senate,  
13 and one to be selected by and from the members ap-  
14 pointed from the House of Delegates. All members of  
15 the commission shall serve until their successors shall  
16 have been appointed as heretofore provided.

**§4-5-2. Powers and duties generally.**

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

3 (1) Conduct a comprehensive and detailed investiga-  
4 tion into the purchasing practices and procedures of the  
5 state;

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

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

14 (4) Determine whether to recommend (a) criminal

15 prosecution for any violations of law or (b) the institu-  
16 tion of any civil action for the recoupment of moneys  
17 paid to vendors in violation of law or (c) both such  
18 criminal prosecution and civil action; and

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

27 The commission is also expressly empowered and au-  
28 thorized to:

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

31 (2) Recommend to the judge of any circuit court or  
32 of any court of record having criminal jurisdiction that  
33 a grand jury be convened pursuant to the provisions of  
34 section fourteen, article two, chapter fifty-two of this  
35 code, to consider any matter which the commission may

36 deem in the public interest, and in support thereof make  
37 available to such court and such grand jury the contents  
38 of any reports, files, transcripts of hearings or other evi-  
39 dence pertinent thereto;

40 (3) Employ such legal, technical, investigative, cleri-  
41 cal, stenographic, advisory and other personnel as it  
42 deems needed and, within the appropriation herein speci-  
43 fied, fix reasonable compensation of such persons and firms  
44 as may be employed;

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

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

**§4-5-3. Executive sessions; hearings; subpoena power; enforce-  
ment provisions.**

1 The commission shall have the power and authority to  
2 hold executive sessions for the purpose of establishing

3 business, policy, an agenda and the interrogation of a wit-  
4 ness or witnesses: *Provided*, That if a witness desires a  
5 public or open hearing he shall have the right to de-  
6 mand the same and shall not be heard otherwise: *Pro-*  
7 *vided, however*, That if a witness desires a hearing in  
8 an executive session, he shall have the right to demand  
9 the same and shall not be heard otherwise. However,  
10 members of the staff of the commission may be per-  
11 mitted to attend executive sessions with permission of  
12 the commission.

13 The commission is hereby empowered and authorized  
14 to examine witnesses and to subpoena such persons and  
15 books, records, documents, papers or any other tangible  
16 things as it believes should be examined to make a com-  
17 plete investigation. All witnesses appearing before the  
18 commission shall testify under oath or affirmation, and  
19 any member of the commission may administer oaths or  
20 affirmations to such witnesses. To compel the attendance  
21 of witnesses at such hearings or the production of any  
22 books, records, documents, papers or any other tangible  
23 thing, the commission is hereby empowered and autho-

24 rized to issue subpoenas, signed by one of the cochair-  
25 men, in accordance with section five, article one, chapter  
26 four of this code. Such subpoenas shall be served by  
27 any person authorized by law to serve and execute legal  
28 process and service shall be made without charge. Wit-  
29 nesses subpoenaed to attend hearings shall be allowed  
30 the same mileage and per diem as is allowed witnesses  
31 before any petit jury in this state.

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

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

1 The members of the commission shall receive travel,



2 interim and out-of-state expenses, as authorized in sec-  
3 tions six, eight and nine, article two-a, chapter four of  
4 this code. Such expenses and all other expenses including  
5 those incurred in the employment of legal, technical, in-  
6 vestigative, clerical, stenographic, advisory and other  
7 personnel shall be paid from the appropriation under  
8 "Account No. 103 for Joint Expenses," but no expense  
9 of any kind whatever shall be incurred unless the approval  
10 of the joint committee on government and finance there-  
11 for is first had and obtained by the commission.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Russell H. Beall*

Chairman Senate Committee

*Phyllis Rutledge*

Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Howard Myers*

Clerk of the Senate

*CA Blankenship*

Clerk of the House of Delegates

*Gibson*

President of the Senate

*Lewis N. McManus*

Speaker House of Delegates

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

*Arch A. Moore Jr.*

Governor

PRESENTED TO THE  
GOVERNOR

Date 3/17/71

Time 11:50 A.M.

RECEIVED

APR 2 11 59 PM '71

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA