

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4207

BY MR. SPEAKER, (MR. ARMSTEAD), AND DELEGATES

MILEY, BATES, LANE AND SHOTT)

[Introduced January 21, 2016; referred to the

Committee on the Judiciary.]

1 A BILL to amend and reenact §4-5-2 of the Code of West Virginia, 1931, as amended, relating to
 2 the ability of the Commission on Special Investigations to obtain information and
 3 documents that are considered confidential.

Be it enacted by the Legislature of West Virginia:

1 That §4-5-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted
 2 to read as follows:

ARTICLE 5. COMMISSION ON SPECIAL INVESTIGATIONS.

§4-5-2. Powers and duties generally.

1 (a) The Commission on Special Investigations ~~shall have~~ has the power, duty and
 2 responsibility, upon a majority vote of the members appointed, to:

3 (1) Conduct a comprehensive and detailed investigation into the purchasing practices and
 4 procedures of the state;

5 (2) Determine if there is reason to believe that the laws or public policy of the state in
 6 connection with purchasing practices and procedures have been violated or are inadequate;

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

10 (4) Investigate or examine any matter involving conflicts of interest, bribery of state
 11 officials, malfeasance, misfeasance or nonfeasance in office by any employee or officer of the
 12 state;

13 (5) Conduct comprehensive and detailed investigations to determine if any criminal or civil
 14 statutes have been violated at any level of state government;

15 (6) Determine whether to recommend criminal prosecution or civil action for any violation,
 16 either criminal or civil, at any level of state government and, if it is determined that action is
 17 necessary, to make appropriate recommendation to the Attorney General, prosecuting attorney
 18 or other authority empowered to act on ~~such~~ the recommendation; and

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

24 (b) The commission ~~is also expressly empowered and authorized to~~ may:

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

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

31 (3) Employ ~~such~~ legal, technical, investigative, clerical, stenographic, advisory and other
32 personnel as it ~~deems~~ considers needed and, within the appropriation herein specified, fix
33 reasonable compensation of ~~such~~ the persons and firms ~~as may be~~ employed: *Provided*, That
34 ~~such~~ the personnel as the commission ~~may determine shall have the authority to~~ determines, may
35 administer oaths and take affidavits and depositions anywhere in the state.

36 (4) Consult and confer with all persons and agencies, public (whether federal, state or
37 local) and private, that have information and data pertinent to an investigation; and all state and
38 local governmental personnel and agencies shall cooperate to the fullest extent with the
39 commission. For the purposes of this subdivision the term "cooperate" includes the disclosure to
40 the commission of any documents, reports or other items in the possession of the person, agency
41 of the state or local government upon the commission's oral or written request to assist it in its
42 investigation, notwithstanding any provision of law that imposes an obligation of confidentiality or
43 secrecy, other than the provisions of Rule 6(e) of the West Virginia Rules Of Criminal Procedure
44 or matters relating to a person's attorney-client privilege;

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

47 (6) Refer ~~such~~ matters as are appropriate to the office of the United States attorney and
48 cooperate with ~~such~~ that office in the disposition of matters so referred.

49 (c) Notwithstanding any provision of this code to the contrary, specific personnel may be
50 designated by the commission to carry a firearm in the course of performing his or her official
51 duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the
52 course of their official duties, ~~any such~~ the designated personnel must have first successfully
53 completed a firearms training and certification program which is equivalent to that which is
54 required of members of the State Police. The designated persons must also possess a license
55 to carry a concealed deadly weapon in the manner prescribed in article seven, chapter sixty-one
56 of this code.

NOTE: The purpose of this bill is to authorize the Commission on Special Investigations to obtain information and documents that are considered confidential.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.