WEST VIRGINIA CODE CHAPTER 7 ARTICLE 23

WV Legislature

§7-23-1. Short title.

This article may be cited as the Local Government Flexibility Act of 2005. No inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section, provision or portion of this article. No legal effect shall be given to any descriptive matter or heading relating to any part, section, subdivision or paragraph of this article.

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§7-23-2. Legislative intent and findings.

(a) Legislative intent. -- It is the intent of the Legislature in enacting this article to provide a framework within which new ideas can be explored to see if they can or should be implemented on a statewide basis.

(b) Legislative findings. -- The Legislature finds and declares that:

(1) County commissions, municipalities and county boards of education today face numerous challenges managing their budgets and other resources and delivering services required by federal or state law or demanded by their constituents.

(2) Local units of government are sometimes restricted by policies, rules and regulations that prevent them from carrying out their duties and responsibilities in a cost effective, efficient and timely manner. To address this concern, this pilot program includes a waiver program whereby county commissions, municipalities and county boards of education may apply to the Governor for waiver of a specific policy, rule or regulation.

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§7-23-3. Flexibility for county commissions, municipalities and county boards of education.

(a) Application for waiver of policies, rules and regulations.

(1) The purpose of this section is to provide a procedure by which county commissions, municipalities and county boards of education may apply for waiver of a policy, rule or regulation the commission, municipality or board believes is preventing it from carrying out its duties and responsibilities in the most cost efficient, effective and timely manner.

(2) The chief executive officer of a county commission, municipality or county board of education may file with the Secretary of Commerce an application for waiver of a policy, rule or regulation he or she believes is preventing the commission, municipality or board from carrying out its duties in the most cost efficient, effective and timely manner.

(3) The application shall be made in writing and be in the form prescribed by the Secretary of Commerce for that purpose. The application shall, at a minimum, require the applicant to provide the official citation of the policy, rule or regulation for which waiver is sought. If there is no official citation, a copy of the policy or letter from which a waiver is sought shall be attached to the application. The applicant shall describe in sufficient detail the problem created by the policy, rule or regulation for which waiver is sought and describe in sufficient detail how the waiver will allow the applicant to carry out the applicant's duties in the most cost efficient, effective and timely manner.

(b) Review by Secretary of Commerce. -– Upon receipt of an application as provided in subsection (a) of this section, the Secretary of Commerce may conduct an investigation or inquiry to gather any additional information necessary to evaluate the application. The Secretary of Commerce shall periodically submit to the Governor a written report summarizing the applications and any recommendations for applications the Secretary of Commerce determines in his or her discretion to forward to the Governor for disposition in accordance with this section. The Secretary of Commerce is granted no authority under this section to issue any waiver.

(c) Review by Governor. -– Upon receipt of the summary and recommendations of the Secretary of Commerce, the Governor may take any action he or she considers appropriate under the circumstances that is within the authority granted to the Governor by the laws of this state. Whenever the Governor believes a statutory change is needed, the Governor shall bring the matter to the attention of the Speaker of the House of Delegates and the President of the Senate.

WV Legislature