WEST VIRGINIA LEGISLATURE
Regular Session, 2005

ENROLLED
Committee Substitute for
SENATE BILL NO. 419

(By Senators Tomblin, Mr. President, and Sapeu)
By Request of the Executive)

PASSED April 9, 2005

In Effect July 1, 2005 Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 419

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed April 9, 2005; to take effect July 1, 2005.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-23-1, §7-23-2 and §7-23-3, all providing that counties, municipalities and county boards of education be allowed relief from certain policies, rules and regulations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §7-23-1, §7-23-2 and §7-23-3, all to read as follows:

ARTICLE 23. LOCAL GOVERNMENT FLEXIBILITY ACT.

§7-23-1. Short title.

1 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 particu-
lar 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.

§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.

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

(a) Application for waiver of policies, rules and regula-
tions.

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

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st Day of April, 2005.

Governor