

FILED

2005 APR 21 P 4: 28

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2005*

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**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 419**

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

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**PASSED April 9, 2005**

**In Effect July 1, 2005 Passage**

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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  
2 Flexibility Act of 2005. No inference, implication or

3 presumption of legislative construction shall be drawn or  
4 made by reason of the location or grouping of any particu-  
5 lar section, provision or portion of this article. No legal  
6 effect shall be given to any descriptive matter or heading  
7 relating to any part, section, subdivision or paragraph of  
8 this article.

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

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

5 (b) *Legislative findings.* — The Legislature finds and  
6 declares that:

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

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

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

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

3 (1) The purpose of this section is to provide a procedure  
4 by which county commissions, municipalities and county  
5 boards of education may apply for waiver of a policy, rule  
6 or regulation the commission, municipality or board

7 believes is preventing it from carrying out its duties and  
8 responsibilities in the most cost efficient, effective and  
9 timely manner.

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

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

30 (b) *Review by Secretary of Commerce.* — Upon receipt of  
31 an application as provided in subsection (a) of this section,  
32 the Secretary of Commerce may conduct an investigation  
33 or inquiry to gather any additional information necessary  
34 to evaluate the application. The Secretary of Commerce  
35 shall periodically submit to the Governor a written report  
36 summarizing the applications and any recommendations  
37 for applications the Secretary of Commerce determines in  
38 his or her discretion to forward to the Governor for  
39 disposition in accordance with this section. The Secretary  
40 of Commerce is granted no authority under this section to  
41 issue any waiver.

42 (c) *Review by Governor.* — Upon receipt of the summary  
43 and recommendations of the Secretary of Commerce, the  
44 Governor may take any action he or she considers appro-  
45 priate under the circumstances that is within the authority  
46 granted to the Governor by the laws of this state. When-  
47 ever the Governor believes a statutory change is needed,  
48 the Governor shall bring the matter to the attention of the  
49 Speaker of the House of Delegates and the President of the  
50 Senate.

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

*Chandy White*  
.....  
Chairman Senate Committee

*D. Keith Bunn*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005.

*Darrell E. Ebelmas*  
.....  
Clerk of the Senate

*Gregg N. Boy*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *21<sup>st</sup>*  
Day of *April*, 2005.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 15 2005

Time 4:00 