

1 **H. B. 2950**

2
3 (By Delegates White and T. Campbell)

4 [By request of the Tax Division

5 [Introduced January 31, 2011; referred to the
6 Committee on Finance.]

7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §11-6F-2 of the Code of West Virginia,
11 1931, as amended, relating to reducing the required original
12 cost of manufacturing facilities and reducing the required
13 cost of the capital addition when determining eligibility for
14 the special method for appraising such property; and excluding
15 real property from the measure of the certified capital
16 addition property and from the measure of the qualified
17 capital addition to a manufacturing facility.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §11-6F-2 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted to read as follows:

21 **ARTICLE 6F. SPECIAL METHOD FOR APPRAISING QUALIFIED CAPITAL**
22 **ADDITIONS TO MANUFACTURING FACILITIES.**

23 **§11-6F-2. Definitions.**

24 As used in this article, the term:

1 (a) "Certified capital addition property" means all real
2 property and personal property included within or to be included
3 within a qualified capital addition to a manufacturing facility
4 that has been certified by the State Tax Commissioner in accordance
5 with section four of this article: *Provided*, That airplanes and
6 motor vehicles licensed by the Division of Motor Vehicles shall in
7 no event constitute certified capital addition property: *Provided*,
8 *however*, That no real property purchased, leased, constructed,
9 located or installed on or after January 1, 2012, may be included
10 in the measure of certified capital addition property.

11 (b) "Manufacturing facility" means any factory, mill, chemical
12 plant, refinery, warehouse, building or complex of buildings,
13 including land on which it is located, and all machinery,
14 equipment, improvements and other real property and personal
15 property located at or within the facility used in connection with
16 the operation of the facility in a manufacturing business.

17 (c) "Personal property" means all property specified in
18 subdivision (q), section ten, article two, chapter two of this code
19 and includes, but is not limited to, furniture, fixtures, machinery
20 and equipment, pollution control equipment, computers and related
21 data processing equipment, spare parts and supplies.

22 (d) "Qualified capital addition to a manufacturing facility"
23 means all real property and personal property, the combined
24 original cost of ~~all of the property~~ which exceeds \$50 million to

1 be constructed, located or installed at or within two miles of a
2 manufacturing facility owned or operated by the person making the
3 capital addition that has a total original cost before the capital
4 addition of at least \$100 million: *Provided, That ~~if~~ beginning on*
5 and after January 1, 2012, "qualified capital addition to a
6 manufacturing facility" means only personal property, the combined
7 original cost of which exceeds \$10 million to be constructed,
8 located or installed on or after January 1, 2012, at or within two
9 miles of a manufacturing facility owned or operated by the person
10 making the capital addition that has a total original cost
11 immediately before the capital addition of at least \$20 million
12 dollars. No real property purchased, leased, constructed, located
13 or installed on or after January 1, 2012, may be included in the
14 measure of the qualified capital addition to a manufacturing
15 facility. If the capital addition is made in a steel, chemical or
16 polymer alliance zone as designated from time-to-time by executive
17 order of the Governor, then the person making the capital addition
18 may for purposes of satisfying the requirements of this subsection
19 join in a multiparty project with a person owning or operating a
20 manufacturing facility that has a total original cost immediately
21 before the capital addition of at least \$100 million if the capital
22 addition creates additional production capacity of existing or
23 related products or feedstock or derivative products respecting the
24 manufacturing facility: *Provided, That with relation to multiparty*

1 projects entailing personal property, the combined original cost of
2 which exceeds \$10 million, to be constructed, located or installed
3 on or after January 1, 2012, the total original cost of the
4 manufacturing facility immediately before the capital addition must
5 be at least \$20 million.

6 (e) "Real property" means all property specified in
7 subdivision (p), section ten, article two, chapter two of this code
8 and includes, but is not limited to, lands, buildings and
9 improvements on the land such as sewers, fences, roads, paving and
10 leasehold improvements.

NOTE: The purpose of this bill is to reduce the disincentive for new capital investment by reducing the original cost requirement for a capital improvement to \$20 million and to reduce the amount of required new investment to \$10 million, and to limit it to personal property rather than both personal property and realty, in order to qualify for preferential treatment as a qualified capital addition.

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