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H. B. 4537

(By Delegates Varner, Cann, Craig, Ferns, Hall,
Nelson, Perdue, Skaff, Andes and T. Campbell)

[Introduced February 15, 2012; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-6F-2 of the Code of West Virginia,
1931, as amended, relating to designating certain property as
qualified capital addition to a manufacturing facility; and to
reducing the disincentive for capital investment.

Be it enacted by the Legislature of West Virginia:

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

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

§11-6F-2. Definitions.

As used in this article, the term:

(a) "Certified capital addition property" means all real
property and personal property included within or to be included
within a qualified capital addition to a manufacturing facility
that has been certified by the State Tax Commissioner in accordance

1 with section four of this article: *Provided*, That airplanes and
2 motor vehicles licensed by the Division of Motor Vehicles shall in
3 no event constitute certified capital addition property.

4 (b) "Manufacturing" means any business activity classified as
5 having a sector identifier, consisting of the first two digits of
6 the six-digit North American Industry Classification System code
7 number of thirty-one, thirty-two or thirty-three or the six digit
8 code number 211112.

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

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

20 (e) "Qualified capital addition to a manufacturing facility"
21 means either:

22 (1) All real property and personal property, the combined
23 original cost of all of the property which exceeds ~~\$50~~ \$10 million
24 to be constructed, located or installed at or within two miles of

1 a manufacturing facility owned or operated by the person making the
2 capital addition that has a total original cost before the capital
3 addition of at least ~~100~~ 20 million. If the capital addition is
4 made in a steel, chemical or polymer alliance zone as designated
5 from time-to-time by executive order of the Governor, then the
6 person making the capital addition may for purposes of satisfying
7 the requirements of this subsection join in a multiparty project
8 with a person owning or operating a manufacturing facility that has
9 a total original cost before the capital addition of at least ~~100~~
10 20 million if the capital addition creates additional production
11 capacity of existing or related products or feedstock or derivative
12 products respecting the manufacturing facility, consists of a
13 facility used to store, handle, process or produce raw materials
14 for the manufacturing facility, consists of a facility used to
15 store, handle or process natural gas to produce fuel for the
16 generation of steam or electricity for the manufacturing facility
17 or consists of a facility that generates steam or electricity for
18 the manufacturing facility, including but not limited to a facility
19 that converts coal to a gas or liquid for the manufacturing
20 facility's use in heating, manufacturing or generation of
21 electricity, ~~Beginning on and after July 1, 2011, when the new~~
22 ~~capital addition is a facility that is or will be classified under~~
23 ~~the North American Industry Classification System with a six digit~~
24 ~~code number 211112,~~ or is a manufacturing facility that uses

1 product produced at a facility with code number 211112; ~~then~~
2 ~~wherever the term "100 million" is used in this subsection, the~~
3 ~~term "20 million" shall be substituted and where the term "50~~
4 ~~million" is used, the term "10 million" shall be substituted. or~~

5 (2) (A) All real property and personal property, the combined
6 original cost of which exceeds \$2 billion to be constructed,
7 located or installed at a facility, or a combination of facilities
8 by a single entity or combination of entities engaged in a unitary
9 business, that:

10 (i) Is or will be classified under the North American Industry
11 Classification System with a six digit code number 211112; or

12 (ii) Is a manufacturing facility that uses one or more
13 products produced at a facility with code number 211112; or

14 (iii) Is a manufacturing facility that uses one or more
15 products produced at a facility described in subparagraph (ii) of
16 this subdivision.

17 (B) No preexisting investment made, or in place before the
18 capital addition shall be required for property specified in
19 paragraph (A) of this subdivision. The requirements set forth in
20 subdivision (1) of this subsection do not apply to property
21 specified in this subdivision relating to:

22 (i) Location or installation of investment at or within two
23 miles of a manufacturing facility owned or operated by the person
24 making the capital addition;

1 (ii) Total original cost of preexisting investment before the
2 capital addition of at least \$100 million or \$20 million; or

3 (iii) Multiparty projects.

4 (f) "Real property" means all property specified in
5 subdivision (p), section ten, article two, chapter two of this code
6 and includes, but is not limited to, lands, buildings and
7 improvements on the land such as sewers, fences, roads, paving and
8 leasehold improvements: Provided, That for capital additions
9 certified on or after July 1, 2011, the value of the land before
10 any improvements shall be subtracted from the value of the capital
11 addition and the unimproved land value shall not be given salvage
12 value treatment.

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.

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