

COMMITTEE SUBSTITUTE

FOR

H. B. 4086

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

(Originating in the Committee on Finance)
[January 20, 2012]

A BILL to amend and reenact §11-6F-2 and §11-6F-4 of the Code of West Virginia, 1931, as amended, all relating to designating certain property as a qualified capital addition to a manufacturing facility and extending that property special valuation to the twenty-fifth year succeeding the year in which the qualified capital addition is first placed in service.

Be it enacted by the Legislature of West Virginia:

That §11-6F-2 and §11-6F-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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

§11-6F-2. Definitions.

1 As used in this article, the term:

2 (a) “Certified capital addition property” means all real
3 property and personal property included within or to be
4 included within a qualified capital addition to a
5 manufacturing facility that has been certified by the State Tax
6 Commissioner in accordance with section four of this article:
7 *Provided*, That airplanes and motor vehicles licensed by the
8 Division of Motor Vehicles shall in no event constitute
9 certified capital addition property.

10 (b) “Manufacturing” means any business activity
11 classified as having a sector identifier, consisting of the first
12 two digits of the six-digit North American Industry
13 Classification System code number of thirty-one, thirty-two
14 or thirty-three or the six digit code number 211112.

15 (c) “Manufacturing facility” means any factory, mill,
16 chemical plant, refinery, warehouse, building or complex of

17 buildings, including land on which it is located, and all
18 machinery, equipment, improvements and other real property
19 and personal property located at or within the facility used in
20 connection with the operation of the facility in a
21 manufacturing business.

22 (d) “Personal property” means all property specified in
23 subdivision (q), section ten, article two, chapter two of this
24 code and includes, but is not limited to, furniture, fixtures,
25 machinery and equipment, pollution control equipment,
26 computers and related data processing equipment, spare parts
27 and supplies.

28 (e) “Qualified capital addition to a manufacturing
29 facility” means either:

30 (1) All real property and personal property, the combined
31 original cost of ~~all of the property~~ which exceeds \$50 million
32 to be constructed, located or installed at or within two miles
33 of a manufacturing facility owned or operated by the person
34 making the capital addition that has a total original cost
35 before the capital addition of at least \$100 million. If the

36 capital addition is made in a steel, chemical or polymer
37 alliance zone as designated from time-to-time by executive
38 order of the Governor, then the person making the capital
39 addition may for purposes of satisfying the requirements of
40 this subsection join in a multiparty project with a person
41 owning or operating a manufacturing facility that has a total
42 original cost before the capital addition of at least \$100
43 million if the capital addition creates additional production
44 capacity of existing or related products or feedstock or
45 derivative products respecting the manufacturing facility,
46 consists of a facility used to store, handle, process or produce
47 raw materials for the manufacturing facility, consists of a
48 facility used to store, handle or process natural gas to produce
49 fuel for the generation of steam or electricity for the
50 manufacturing facility or consists of a facility that generates
51 steam or electricity for the manufacturing facility, including
52 but not limited to a facility that converts coal to a gas or
53 liquid for the manufacturing facility's use in heating,
54 manufacturing or generation of electricity. Beginning on and

55 after July 1, 2011, when the new capital addition is a facility
56 that is or will be classified under the North American
57 Industry Classification System with a six digit code number
58 211112, or is a manufacturing facility that uses product
59 produced at a facility with code number 211112, then
60 wherever the term “100 million” is used in this subsection,
61 the term “20 million” shall be substituted and where the term
62 “50 million” is used, the term “10 million” shall be
63 substituted; or

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

69 (i) Is or will be classified under the North American
70 Industry Classification System with a six digit code number
71 211112; or

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

74 (iii) Is a manufacturing facility that uses one or more
75 products produced at a facility described in subparagraph (ii)
76 of this subdivision.

77 (B) No preexisting investment made, or in place before
78 the capital addition shall be required for property specified in
79 this subdivision (2). The requirements set forth in subdivision
80 (1) of this subsection shall not apply to property specified in
81 this subdivision (2) relating to:

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

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

87 (iii) Multiparty projects.

88 (f) “Real property” means all property specified in
89 subdivision (p), section ten, article two, chapter two of this
90 code and includes, but is not limited to, lands, buildings and
91 improvements on the land such as sewers, fences, roads,
92 paving and leasehold improvements: Provided, That for

93 capital additions certified on or after July 1, 2011, the value
94 of the land before any improvements shall be subtracted from
95 the value of the capital addition and the unimproved land
96 value shall not be given salvage value treatment.

§11-6F-4. Application and certification.

1 Any person seeking designation of property as certified
2 capital addition property shall first make a sworn application
3 to the State Tax Commissioner on forms prescribed by the
4 State Tax Commissioner on or before the date the property is
5 first required to be reported on an annual return for ad
6 valorem property tax purposes. The State Tax Commissioner
7 shall within ninety days of the application determine in
8 writing whether the property is or will be part of a qualified
9 capital addition to a manufacturing facility as defined in
10 section two of this article and shall provide a copy of the
11 written determination to the applicant and the assessor or
12 assessors in the county or counties in which the
13 manufacturing facility is located. The applicant may file an
14 appeal with the State Tax Commissioner to have a formal

15 hearing for a review and redetermination on qualified capital
16 additions to a manufacturing facility which have been
17 disallowed by the State Tax Commissioner within thirty days
18 of the official written notification from the State Tax
19 Commissioner. After the State Tax Commissioner determines
20 that property is or will be part of a qualified capital addition
21 to a manufacturing facility, the property is and remains
22 certified capital addition property for purposes of this article
23 until the earlier of: (a) The disposition of the property to an
24 unrelated third party other than a transferee who continues to
25 operate the manufacturing facility; (b) the cessation of all
26 business at the manufacturing facility; or (c) with regard to:
27 (1) Property described in subdivision (1), subsection (e),
28 section two of this article, the tenth year succeeding the year
29 in which the qualified capital addition to a manufacturing
30 facility to which the property relates is first placed in service;
31 or (2) property described in subdivision (2), subsection (e),
32 section two of this article, the twenty-fifth year succeeding
33 the year in which the qualified capital addition to a

34 manufacturing facility to which the property relates is first
35 placed in service.

36 All applications and determinations under this section
37 constitute return information and are subject to section
38 twenty-three, article one-a of this chapter. The State Tax
39 Commissioner shall report annually the number of
40 applications filed, certified, denied and pending pursuant to
41 this section for the preceding year along with
42 recommendations regarding the structure, benefits and costs
43 of the valuation method specified in this article to the Joint
44 Committee on Government and Finance and to the Governor:
45 *Provided*, That identifying characteristics and facts about
46 applicants may not in any event be disclosed under this
47 section.