

H. B. 3068

(By Delegates Craig, Hunt, Marcum, R.Phillips,
and Williams)

[Introduced March 22, 2013; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-6F-1 and §11-6F-2 of the Code of
West Virginia, 1931, as amended, all relating to expanding
the property appraisal provisions of this article to include
qualified capital additions to coal production facilities.

Be it enacted by the Legislature of West Virginia:

That §11-6F-1 and §11-6F-2 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 AND COAL
PRODUCTION FACILITIES.**

§11-6F-1. Legislative findings.

The Legislature finds that the encouragement of economic
growth and development in this state is in the public interest and
promotes the general welfare of the people of this state. The
Legislature further finds that the ad valorem property tax

1 valuation set forth in this article for certified capital addition
2 property, as defined in section two of this article, will help
3 preserve the tax base and preserve and create jobs attributable to
4 manufacturing facilities and coal production facilities existing in
5 this state.

6 **§11-6F-2. Definitions.**

7 As used in this article, the term:

8 (a) "Certified capital addition property" means all real
9 property and personal property included within or to be included
10 within a qualified capital addition to a manufacturing facility or
11 included within a qualified capital addition to a coal production
12 facility that has been certified by the State Tax Commissioner in
13 accordance with section four of this article: *Provided*, That
14 airplanes and motor vehicles licensed by the Division of Motor
15 Vehicles shall in no event constitute certified capital addition
16 property.

17 (b) "Coal production facility" means any mine, preparation
18 plant, loading facility, storage facility, building, complex of
19 buildings and associated facilities and apparatus used for the
20 performance of the act or process of exploring, developing,
21 severing extracting, reducing to possession, washing, processing,
22 loading for shipment and shipment for sale of any coal or coal
23 product including any reclamation, waste disposal or environmental
24 activities associated therewith: *Provided*, That coal reserves and

1 other real estate upon which a coal production facility is located
2 area not considered a part of the facility for purposes of this
3 article.

4 ~~(b)~~ (c) "Manufacturing" means any business activity classified
5 as having a sector identifier, consisting of the first two digits
6 of 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)~~ (d) "Manufacturing facility" means any factory, mill,
10 chemical plant, refinery, warehouse, building or complex of
11 buildings, including land on which it is located, and all
12 machinery, equipment, improvements and other real property and
13 personal property located at or within the facility used in
14 connection with the operation of the facility in a manufacturing
15 business.

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

21 ~~(e)~~ (f) "Qualified capital addition to a manufacturing
22 facility" means either:

23 (1) All real property and personal property, the combined
24 original cost of which exceeds \$50 million to be constructed,

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

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

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

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

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

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

18 (B) No preexisting investment made, or in place before the
19 capital addition shall be required for property specified in this
20 subdivision (2). The requirements set forth in subdivision (1) of
21 this subsection shall not apply to property specified in this
22 subdivision (2) relating to:

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

1 making the capital addition;

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

4 (iii) Multiparty projects.

5 (g) "Qualified capital addition to a coal production facility"
6 means all personal property, the combined original cost of which
7 exceeds \$10 million to be constructed, located or installed at or
8 within two miles of a coal production facility owned or operated by
9 the person making the capital addition that has a total original
10 cost before the capital addition of at least \$20 million if the
11 capital addition creates additional coal production capacity or if
12 the capital addition consists of a facility used to increase the
13 capacity of the coal production facility to store, handle, process
14 or load coal.

15 ~~(f)~~ (h) "Real property" means all property specified in
16 subdivision (p), section ten, article two, chapter two of this code
17 and includes, but is not limited to, lands, buildings and
18 improvements on the land such as sewers, fences, roads, paving and
19 leasehold improvements: *Provided*, That for capital additions
20 certified on or after July 1, 2011, the value of the land before
21 any improvements shall be subtracted from the value of the capital
22 addition and the unimproved land value shall not be given salvage
23 value treatment.

NOTE: The purpose of this bill is to expand the property appraisal provisions of this article to include qualified capital additions to coal production facilities.

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