WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

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ENROLLED

SENATE BILL NO. 573

(By Senator CRAIGO, et al.)

PASSED APRIL 12, 1997

In Effect NINETY Days From Passage
ENROLLED

Senate Bill No. 513

(BY SENATOR CRAIGO)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-f, relating to appraisal of property as part of qualified capital addition to a manufacturing facility for ad valorem property tax purposes; legislative findings; definition of terms; certification by state tax commissioner; and rules including emergency rules and effective dates.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-f, to read as follows:

ARTICLE 6F. SPECIAL METHOD FOR APPRAISING QUALIFIED CAPITAL ADDITIONS TO MANUFACTURING FACILITIES.
§11-6F-1. Legislative findings.

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

§11-6F-2. Definitions.

1 As used in this article, the term:

2 (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 with section four of this article: Provided, That airplanes and motor vehicles licensed by the division of motor vehicles shall in no event constitute certified capital addition property.

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

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

5 (d) “Qualified capital addition to a manufacturing facility” means all real property and personal property, the combined original cost of all of the property which exceeds fifty million dollars to be constructed, located or installed at or within two miles of a manufacturing
facility owned or operated by the person making the capital addition that has a total original cost before the capital addition of at least one hundred million dollars:

Provided, That if the capital addition is made in a polymer alliance zone as designated from time-to-time by executive order of the governor, then the person making the capital addition may for purposes of satisfying the requirements of this subsection join in a multiparty project with a person owning or operating a manufacturing facility that has a total original cost before the capital addition of at least one hundred million dollars if the capital addition creates additional production capacity of existing or related products or feedstock or derivative products respecting the manufacturing facility.

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

§11-6F-3. Tax treatment of certified capital addition property.

Notwithstanding any other provisions of law, the value of certified capital addition property, for purposes of ad valorem property taxation under this chapter, shall be its salvage value, which for purposes of this article is five percent of the certified capital addition property's original cost.

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

Any person seeking designation of property as certified capital addition property shall first make a sworn application to the state tax commissioner on forms prescribed by the state tax commissioner on or before the date the property is first required to be reported on an annual return for ad valorem property tax purposes. The state tax commissioner shall within ninety days of the application determine in writing whether the property is or will be part of a qualified capital addition to a manufacturing facility as defined in section two of this article and shall provide a copy of the written determination to the applicant and the assessor or assessors in the county or counties
in which the manufacturing facility is located. The applicant may file an appeal with the state tax commis-
sioner to have a formal hearing for a review and redetermination on qualified capital additions to a
manufacturing facility which have been disallowed by the state tax commissioner within thirty days of the official
written notification from the state tax commissioner. After the state tax commissioner determines that property
is or will be part of a qualified capital addition to a manufacturing facility, the property is and remains
certified capital addition property for purposes of this article until the earlier of: (a) The disposition of the
property to an unrelated third party other than a trans-
feree who continues to operate the manufacturing facility; (b) the cessation of all business at the manufacturing
facility; or (c) the tenth year succeeding the year in which the qualified capital addition to a manufacturing facility
to which the property relates is first placed in service. All applications and determinations under this section
constitute return information and are subject to section twenty-three, article one-a of this chapter. The state tax
commissioner shall report annually the number of applications filed, certified, denied and pending pursuant to
this section for the preceding year along with recommen-
dations regarding the structure, benefits and costs of the valuation method specified in this article to the joint
committee on government and finance and to the gover-
nor: Provided, That identifying characteristics and facts
about applicants may not in any event be disclosed under this section.

§11-6F-5. Authority to propose rules.

1 The state tax commissioner shall propose rules for promulgation in accordance with article three, chapter
twenty-nine-a of this code for the administration of this article as may be necessary to implement the provisions of
this article: Provided, That the state tax commissioner may promulgate emergency rules to implement the
provisions of this article.

§11-6F-6. Effective date.
This article is effective for the tax years beginning on and after the first day of July, one thousand nine hundred ninety-seven.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd day of May, 1997.

Governor