WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4086

(By Mr. Speaker, Mr. Thompson)
[By Request of the Executive]

Passed January 25, 2012
To Take Effect July 1, 2012
AN ACT 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 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.

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

(c) "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.

(d) "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.

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

(1) All real property and personal property, the combined original cost of which exceeds $50 million 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 $100 million. If the capital addition is
made in a steel, chemical or 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 $100 million if the capital addition creates additional production capacity of existing or related products or feedstock or derivative products respecting the manufacturing facility, consists of a facility used to store, handle, process or produce raw materials for the manufacturing facility, consists of a facility used to store, handle or process natural gas to produce fuel for the generation of steam or electricity for the manufacturing facility or consists of a facility that generates steam or electricity for the manufacturing facility, including but not limited to a facility that converts coal to a gas or liquid for the manufacturing facility’s use in heating, manufacturing or generation of electricity. Beginning on and after July 1, 2011, when the new capital addition is a facility that is or will be classified under the North American Industry Classification System with a six digit code number 211112, or is a manufacturing facility that uses product produced at a facility with code number 211112, then wherever the term “100 million” is used in this subsection, the term “20 million” shall be substituted and where the term “50 million” is used, the term “10 million” shall be substituted; or

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

(i) Is or will be classified under the North American Industry Classification System with a six digit code number 211112; or
(ii) Is a manufacturing facility that uses one or more products produced at a facility with code number 211112; or

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

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

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

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

(iii) Multiparty projects.

(f) "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: Provided, That for capital additions certified on or after July 1, 2011, the value of the land before any improvements shall be subtracted from the value of the capital addition and the unimproved land value shall not be given salvage value treatment.

§16-6F-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 Commissioner 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 transferee who continues to operate the manufacturing facility; (b) the cessation of all business at the manufacturing facility; or (c) with regard to: (1) Property described in subdivision (1), subsection (e), section two of this article, 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; or (2) property described in subdivision (2), subsection (e), section two of this article, the twenty-fifth 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 recommendations 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 Governor: Provided, That identifying characteristics and facts about applicants may not in any event be disclosed under this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect July 1, 2012.

Clerk of the House of Delegates

Assistant Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within bill approved this the $26$th day of January, 2012.

Governor
PRESENTED TO THE GOVERNOR

JAN 25 2012

Time 5:25 pm