

By: Jackson, Staples

S.B. No. 1102

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a program by the Department of Agriculture to make grants to farmers and diverters who provide agricultural biomass to facilities that convert biomass to electrical energy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Agriculture Code, is amended by adding Chapter 22 to read as follows:

CHAPTER 22. LANDFILL DIVERSION AND AGRICULTURAL BIOMASS

INCENTIVE PROGRAM

Sec. 22.001. POLICY AND PURPOSE. It is the policy of this state and the purpose of this chapter to reduce air pollution from open-field burning and landfill operations and to improve air quality and protect public health through new incentives for biomass conversion facilities to convert to electrical energy certain agricultural residues, including urban and forest wood waste, that would otherwise be burned in open fields or be landfilled.

Sec. 22.002. DEFINITIONS. In this chapter:

(1) "Diverter":

(A) means:

(i) a person or facility that qualifies for exemption under Section 361.111 or 363.006, Health and Safety Code;

(ii) a handler of nonhazardous industrial

1 waste that is registered or permitted under Chapter 361, Health and  
2 Safety Code; and

3 (iii) any facility that separates  
4 recyclable materials from a municipal solid waste stream and that  
5 is registered or permitted under Chapter 363, Health and Safety  
6 Code, as a municipal solid waste management facility; and

7 (B) does not include a biomass conversion  
8 facility.

9 (2) "Farmer" means the owner or operator of an  
10 agricultural facility which produces agricultural residues in the  
11 normal course of producing agricultural products.

12 (3) "Qualified agricultural biomass" means  
13 agricultural residues that are of a type that historically have  
14 been landfilled or that have been burned in open fields in the area  
15 from which they are derived and in fields and orchards that continue  
16 to be utilized for the production of agricultural goods, and  
17 includes:

18 (A) field and seed crop residues, including  
19 straws from rice and wheat;

20 (B) fruit and nut crop residues, including  
21 orchard and vineyard prunings and removals; and

22 (C) urban and forest wood products.

23 Sec. 22.003. GRANT PROGRAM. (a) The department shall  
24 develop and administer the landfill diversion and agricultural  
25 biomass incentive program to make grants to farmers and diverters  
26 who provide qualified agricultural biomass to facilities that  
27 convert biomass to electrical energy in order to provide an

1 incentive for the construction of facilities for that purpose in  
2 order to:

3 (1) promote economic development;

4 (2) encourage the use of renewable sources in the  
5 production of electrical energy; and

6 (3) reduce air pollution caused by the burning of  
7 agricultural biomass in open fields.

8 (b) Subject to grant limitations under Section 22.005, a  
9 farmer is entitled to receive a grant in the amount of \$30 per ton,  
10 and a diverter is entitled to receive a grant in the amount of \$10  
11 per ton, for each bone-dry ton of qualified agricultural biomass  
12 provided by the farmer or diverter in a form suitable for biomass  
13 conversion to a facility that:

14 (1) is located in this state;

15 (2) was constructed on or after June 30, 2006;

16 (3) converts qualified agricultural biomass to  
17 electrical energy sold to a third party;

18 (4) uses the best available emissions control  
19 technology, considering the technical practicability and economic  
20 reasonableness of reducing or eliminating the air contaminant  
21 emissions resulting from the facility;

22 (5) maintains its emissions control equipment in good  
23 working order; and

24 (6) is in compliance with its operating permit issued  
25 by the Texas Commission on Environmental Quality under Chapter 382,  
26 Health and Safety Code.

27 (c) The commissioner by rule may authorize the making of a

1 grant for providing a bone-dry ton of a type or source of qualified  
2 agricultural biomass in an amount that is greater than the amount  
3 provided by Subsection (b) if the commissioner determines that a  
4 grant in a greater amount is necessary to provide an adequate  
5 incentive to convert that type or source of qualified agricultural  
6 biomass to electrical energy.

7 (d) The Public Utility Commission of Texas and the Texas  
8 Commission on Environmental Quality shall assist the department as  
9 necessary to enable the department to determine whether a facility  
10 meets the requirements of this section for purposes of the  
11 eligibility of farmers and diverters for grants under this chapter.

12 (e) To receive a grant under this chapter, a farmer or  
13 diverter must file an application with the department on a form  
14 prescribed by the department. The form must require the farmer or  
15 diverter to provide the information necessary to determine whether  
16 the farmer or diverter is entitled to receive a grant and to  
17 determine the amount of the grant to which the farmer or diverter is  
18 entitled.

19 (f) The department shall provide for the distribution of  
20 grant money under this chapter to eligible farmers and diverters.  
21 Grant money must be distributed to eligible farmers and diverters  
22 in the order in which applications for the grants are received. The  
23 department shall make grants not less often than quarterly, subject  
24 to appropriations.

25 (g) The department may contract with and provide for the  
26 compensation of private consultants, contractors, and other  
27 persons to administer the landfill diversion and agricultural

1 biomass incentive program.

2 Sec. 22.004. LANDFILL DIVERSION AND AGRICULTURAL BIOMASS  
3 INCENTIVE PROGRAM ACCOUNT. (a) The landfill diversion and  
4 agricultural biomass incentive program account is an account in the  
5 general revenue fund. The account is composed of:

6 (1) legislative appropriations;

7 (2) gifts, grants, donations, and matching funds  
8 received under Subsection (b); and

9 (3) other money required by law to be deposited in the  
10 account.

11 (b) The department may solicit and accept gifts in kind,  
12 donations, and grants of money from the federal government, local  
13 governments, private corporations, or other persons to be used for  
14 the purposes of this chapter.

15 (c) Money in the account may be appropriated to the  
16 department only for the purpose of implementing and maintaining the  
17 landfill diversion and agricultural biomass incentive program.

18 (d) Income from money in the account shall be credited to  
19 the account.

20 Sec. 22.005. LIMITATION ON GRANT AMOUNT. The department  
21 may grant no more than \$30 million each fiscal year under this  
22 chapter. Any unspent balance remaining in the landfill diversion  
23 and agricultural biomass incentive program account at the end of  
24 each fiscal year is available for grants made during subsequent  
25 years.

26 Sec. 22.006. LENGTH OF PROGRAM. The landfill diversion and  
27 agricultural biomass incentive program ends on August 31, 2020. On

1 September 1, 2020, any funds remaining in the landfill diversion  
2 and agricultural biomass incentive program account shall be  
3 deposited in the general revenue fund.

4 Sec. 22.007. BIOMASS CONVERSION FACILITIES NOT ELIGIBLE.

5 (a) Except as described under Subsection (b), a biomass conversion  
6 facility is not eligible to receive a grant under this chapter or  
7 under any other state law for the conversion of qualified  
8 agricultural biomass for which a farmer or diverter has received a  
9 grant under this chapter.

10 (b) A biomass conversion facility may receive a grant under  
11 this chapter for the conversion of qualified agricultural biomass  
12 which arrives at the facility in a form unsuitable for conversion  
13 and which the facility processes into a form suitable for  
14 conversion.

15 Sec. 22.008. RULES. The commissioner, in consultation with  
16 the Public Utility Commission of Texas and the Texas Commission on  
17 Environmental Quality, shall adopt rules to implement this chapter.

18 Sec. 22.009. AVAILABILITY OF FUNDS. Notwithstanding any  
19 other provision of this chapter, the department shall not be  
20 required to administer this chapter or promulgate rules under this  
21 chapter until funds are available for those purposes.

22 SECTION 2. This Act takes effect September 1, 2005.