

1-1 By: Jackson S.B. No. 1102
1-2 (In the Senate - Filed March 8, 2005; March 21, 2005, read
1-3 first time and referred to Subcommittee on Agriculture and Coastal
1-4 Resources; March 30, 2005, reported adversely, with favorable
1-5 Committee Substitute to Committee on Natural Resources; April 5, 2005,
1-6 reported adversely, with favorable Committee Substitute from
1-7 Committee on Natural Resources by the following vote: Yeas 9,
1-8 Nays 0; April 11, 2005, sent to printer.)

1-9 COMMITTEE SUBSTITUTE FOR S.B. No. 1102 By: Jackson

1-10 A BILL TO BE ENTITLED
1-11 AN ACT

1-12 relating to the establishment of a program by the Department of
1-13 Agriculture to make grants to farmers and diverters who provide
1-14 agricultural biomass to facilities that convert biomass to
1-15 electrical energy.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-17 SECTION 1. Title 2, Agriculture Code, is amended by adding
1-18 Chapter 22 to read as follows:

1-19 CHAPTER 22. LANDFILL DIVERSION AND AGRICULTURAL BIOMASS
1-20 INCENTIVE PROGRAM

1-21 Sec. 22.001. POLICY AND PURPOSE. It is the policy of this
1-22 state and the purpose of this chapter to reduce air pollution from
1-23 open-field burning and landfill operations and to improve air
1-24 quality and protect public health through new incentives for
1-25 biomass conversion facilities to convert to electrical energy
1-26 certain agricultural residues, including urban and forest wood
1-27 waste, that would otherwise be burned in open fields or be
1-28 landfilled.

1-29 Sec. 22.002. DEFINITIONS. In this chapter:

1-30 (1) "Diverter":

1-31 (A) means:

1-32 (i) a person or facility that qualifies for
1-33 exemption under Section 361.111 or 363.006, Health and Safety Code;

1-34 (ii) a handler of nonhazardous industrial
1-35 waste that is registered or permitted under Chapter 361, Health and
1-36 Safety Code; and

1-37 (iii) any facility that separates
1-38 recyclable materials from a municipal solid waste stream and that
1-39 is registered or permitted under Chapter 363, Health and Safety
1-40 Code, as a municipal solid waste management facility; and

1-41 (B) does not include a biomass conversion
1-42 facility.

1-43 (2) "Farmer" means the owner or operator of an
1-44 agricultural facility which produces agricultural residues in the
1-45 normal course of producing agricultural products.

1-46 (3) "Qualified agricultural biomass" means
1-47 agricultural residues that are of a type that historically have
1-48 been landfilled or that have been burned in open fields in the area
1-49 from which they are derived and in fields and orchards that continue
1-50 to be utilized for the production of agricultural goods, and
1-51 includes:

1-52 (A) field and seed crop residues, including
1-53 straws from rice and wheat;

1-54 (B) fruit and nut crop residues, including
1-55 orchard and vineyard prunings and removals; and

1-56 (C) urban and forest wood products.

1-57 Sec. 22.003. GRANT PROGRAM. (a) The department shall
1-58 develop and administer the landfill diversion and agricultural
1-59 biomass incentive program to make grants to farmers and diverters
1-60 who provide qualified agricultural biomass to facilities that
1-61 convert biomass to electrical energy in order to provide an
1-62 incentive for the construction of facilities for that purpose in
1-63 order to:

2-1 (1) promote economic development;
2-2 (2) encourage the use of renewable sources in the
2-3 production of electrical energy; and
2-4 (3) reduce air pollution caused by the burning of
2-5 agricultural biomass in open fields.

2-6 (b) Subject to grant limitations under Section 22.005, a
2-7 farmer is entitled to receive a grant in the amount of \$30 per ton,
2-8 and a diverter is entitled to receive a grant in the amount of \$10
2-9 per ton, for each bone-dry ton of qualified agricultural biomass
2-10 provided by the farmer or diverter in a form suitable for biomass
2-11 conversion to a facility that:

2-12 (1) is located in this state;

2-13 (2) was constructed on or after June 30, 2006;

2-14 (3) converts qualified agricultural biomass to
2-15 electrical energy sold to a third party;

2-16 (4) uses the best available emissions control
2-17 technology, considering the technical practicability and economic
2-18 reasonableness of reducing or eliminating the air contaminant
2-19 emissions resulting from the facility;

2-20 (5) maintains its emissions control equipment in good
2-21 working order; and

2-22 (6) is in compliance with its operating permit issued
2-23 by the Texas Commission on Environmental Quality under Chapter 382,
2-24 Health and Safety Code.

2-25 (c) The commissioner by rule may authorize the making of a
2-26 grant for providing a bone-dry ton of a type or source of qualified
2-27 agricultural biomass in an amount that is greater than the amount
2-28 provided by Subsection (b) if the commissioner determines that a
2-29 grant in a greater amount is necessary to provide an adequate
2-30 incentive to convert that type or source of qualified agricultural
2-31 biomass to electrical energy.

2-32 (d) The Public Utility Commission of Texas and the Texas
2-33 Commission on Environmental Quality shall assist the department as
2-34 necessary to enable the department to determine whether a facility
2-35 meets the requirements of this section for purposes of the
2-36 eligibility of farmers and diverters for grants under this chapter.

2-37 (e) To receive a grant under this chapter, a farmer or
2-38 diverter must file an application with the department on a form
2-39 prescribed by the department. The form must require the farmer or
2-40 diverter to provide the information necessary to determine whether
2-41 the farmer or diverter is entitled to receive a grant and to
2-42 determine the amount of the grant to which the farmer or diverter is
2-43 entitled.

2-44 (f) The department shall provide for the distribution of
2-45 grant money under this chapter to eligible farmers and diverters.
2-46 Grant money must be distributed to eligible farmers and diverters
2-47 in the order in which applications for the grants are received. The
2-48 department shall make grants not less often than quarterly, subject
2-49 to appropriations.

2-50 (g) The department may contract with and provide for the
2-51 compensation of private consultants, contractors, and other
2-52 persons to administer the landfill diversion and agricultural
2-53 biomass incentive program.

2-54 Sec. 22.004. LANDFILL DIVERSION AND AGRICULTURAL BIOMASS
2-55 INCENTIVE PROGRAM ACCOUNT. (a) The landfill diversion and
2-56 agricultural biomass incentive program account is an account in the
2-57 general revenue fund. The account is composed of:

2-58 (1) legislative appropriations;

2-59 (2) gifts, grants, donations, and matching funds
2-60 received under Subsection (b); and

2-61 (3) other money required by law to be deposited in the
2-62 account.

2-63 (b) The department may solicit and accept gifts in kind,
2-64 donations, and grants of money from the federal government, local
2-65 governments, private corporations, or other persons to be used for
2-66 the purposes of this chapter.

2-67 (c) Money in the account may be appropriated to the
2-68 department only for the purpose of implementing and maintaining the
2-69 landfill diversion and agricultural biomass incentive program.

3-1 (d) Income from money in the account shall be credited to
3-2 the account.

3-3 Sec. 22.005. LIMITATION ON GRANT AMOUNT. The department
3-4 may grant no more than \$30 million each fiscal year under this
3-5 chapter. Any unspent balance remaining in the landfill diversion
3-6 and agricultural biomass incentive program account at the end of
3-7 each fiscal year is available for grants made during subsequent
3-8 years.

3-9 Sec. 22.006. LENGTH OF PROGRAM. The landfill diversion and
3-10 agricultural biomass incentive program ends on August 31, 2020. On
3-11 September 1, 2020, any funds remaining in the landfill diversion
3-12 and agricultural biomass incentive program account shall be
3-13 deposited in the general revenue fund.

3-14 Sec. 22.007. BIOMASS CONVERSION FACILITIES NOT ELIGIBLE.

3-15 (a) Except as described under Subsection (b), a biomass conversion
3-16 facility is not eligible to receive a grant under this chapter or
3-17 under any other state law for the conversion of qualified
3-18 agricultural biomass for which a farmer or diverter has received a
3-19 grant under this chapter.

3-20 (b) A biomass conversion facility may receive a grant under
3-21 this chapter for the conversion of qualified agricultural biomass
3-22 which arrives at the facility in a form unsuitable for conversion
3-23 and which the facility processes into a form suitable for
3-24 conversion.

3-25 Sec. 22.008. RULES. The commissioner, in consultation with
3-26 the Public Utility Commission of Texas and the Texas Commission on
3-27 Environmental Quality, shall adopt rules to implement this chapter.

3-28 Sec. 22.009. AVAILABILITY OF FUNDS. Notwithstanding any
3-29 other provision of this chapter, the department shall not be
3-30 required to administer this chapter or promulgate rules under this
3-31 chapter until funds are available for those purposes.

3-32 SECTION 2. This Act takes effect September 1, 2005.

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