

By: McCall

H.B. No. 4031

Substitute the following for H.B. No. 4031:

By: Brown of Kaufman

C.S.H.B. No. 4031

A BILL TO BE ENTITLED

AN ACT

relating to the agricultural biomass and landfill diversion
incentive program.

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

SECTION 1. Section 22.002, Agriculture Code, is amended by
amending Subdivisions (1) and (5) and adding Subdivisions (1-a) and
(5-a) to read as follows:

(1) "Co-firing biomass" means a solid fuel that:

(A) contains qualified agricultural biomass;

(B) is produced by a renewable biomass aggregator
and bio-coal fuel producer; and

(C) is used to supplement coal combustion for the
generation of electricity.

(1-a) "Diverter":

(A) means:

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

(ii) a handler of nonhazardous industrial
waste that is registered or permitted under Chapter 361, Health and
Safety Code; ~~or~~

(iii) a facility that separates recyclable
materials from a municipal solid waste stream and that is
registered or permitted under Chapter 363, Health and Safety Code,

1 as a municipal solid waste management facility; or
2 (iv) a renewable biomass aggregator and
3 bio-coal fuel producer that operates an integrated harvesting,
4 transportation, and solid biofuel conversion facility for
5 qualified agricultural biomass; and

6 (B) does not include a facility that uses biomass
7 to generate electric energy.

8 (5) "Qualified agricultural biomass" means:

9 (A) agricultural residues that are of a type that
10 historically have been disposed of in a landfill, relocated from
11 their point of origin and stored in a manner not intended to enhance
12 or restore the soil, burned in open fields in the area from which
13 they are derived, or burned in fields and orchards that continue to
14 be used for the production of agricultural goods, and includes:

15 (i) field or seed crop residues, including
16 straw from rice or wheat, cotton gin trash, corn stover, grain
17 sorghum (milo) harvest residues, sugarcane bagasse, and
18 switchgrass;

19 (ii) fruit or nut crop residues, including
20 orchard or vineyard prunings and removals;

21 (iii) forest wood waste or urban wood
22 waste, including state designated forest management cuttings and
23 brush management cuttings from private lands; and

24 (iv) agricultural livestock waste
25 nutrients; and

26 (B) a crop grown and used specifically for its
27 energy generation value, including a crop consisting of a

1 fast-growing tree species.

2 (5-a) "Renewable biomass aggregator and bio-coal fuel
3 producer" means an operator of an integrated harvesting,
4 transportation, and fuel conversion facility that aggregates
5 qualified agricultural or forest biomass and produces renewable
6 fuel suitable for replacing coal or co-firing with coal.

7 SECTION 2. Sections 22.003(a), (b), (c), (d), (e), and (f),
8 Agriculture Code, are amended to read as follows:

9 (a) The department shall develop and administer an
10 agricultural biomass and landfill diversion incentive program to
11 make grants to farmers, loggers, ~~and~~ diverters, and renewable
12 biomass aggregators and bio-coal fuel producers who provide
13 qualified agricultural biomass, forest wood waste, urban wood
14 waste, co-firing biomass, or storm-generated biomass debris to
15 facilities that use biomass to generate electric energy in order to
16 provide an incentive for the construction of facilities for that
17 purpose and to:

18 (1) promote economic development;

19 (2) encourage the use of renewable sources in the
20 generation of electric energy;

21 (3) reduce air pollution caused by burning
22 agricultural biomass, forest wood waste, urban wood waste,
23 co-firing biomass, or storm-generated biomass debris in open
24 fields; and

25 (4) divert waste from landfills.

26 (b) Subject to Section 22.005, a farmer, logger, ~~or~~
27 diverter, or renewable biomass aggregator and bio-coal fuel

1 producer is entitled to receive a grant in the amount of \$20 for
2 each bone-dry ton of qualified agricultural biomass, forest wood
3 waste, urban wood waste, co-firing biomass, or storm-generated
4 biomass debris provided by the farmer, logger, [~~or~~] diverter, or
5 renewable biomass aggregator and bio-coal fuel producer in a form
6 suitable for generating electric energy to a facility that:

7 (1) is located in this state;

8 (2) was placed in service after August 31, 2009;

9 (3) generates electric energy sold to a third party by
10 using qualified agricultural biomass, forest wood waste, urban wood
11 waste, co-firing biomass, or storm-generated biomass debris;

12 (4) uses the best available emissions control
13 technology, considering the technical practicability and economic
14 reasonableness of reducing or eliminating the air contaminant
15 emissions resulting from the facility;

16 (5) maintains its emissions control equipment in good
17 working order; and

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

21 (c) The commissioner by rule may authorize a grant to be
22 made for providing each bone-dry ton of a type or source of
23 qualified agricultural biomass, forest wood waste, urban wood
24 waste, co-firing biomass, or storm-generated biomass debris in an
25 amount that is greater than the amount provided by Subsection (b) if
26 the commissioner determines that a grant in a greater amount is
27 necessary to provide an adequate incentive to use that type or

1 source of qualified agricultural biomass, forest wood waste, urban
2 wood waste, co-firing biomass, or storm-generated biomass debris to
3 generate electric energy.

4 (d) The Public Utility Commission of Texas and the Texas
5 Commission on Environmental Quality shall assist the department as
6 necessary to enable the department to determine whether a facility
7 meets the requirements of Subsection (b) for purposes of the
8 eligibility of farmers, loggers, [~~and~~] diverters, and renewable
9 biomass aggregators and bio-coal fuel producers for grants under
10 this chapter.

11 (e) To receive a grant under this chapter, a farmer, logger,
12 [~~or~~] diverter, or renewable biomass aggregator and bio-coal fuel
13 producer must deliver qualified agricultural biomass, forest wood
14 waste, urban wood waste, co-firing biomass, or storm-generated
15 biomass debris to a facility described by Subsection (b). The
16 operator of each facility described by that subsection shall:

17 (1) verify and document the amount of qualified
18 agricultural biomass, forest wood waste, urban wood waste,
19 co-firing biomass, or storm-generated biomass debris delivered to
20 the facility for the generation of electric energy; and

21 (2) make a grant on behalf of the department in the
22 appropriate amount to each farmer, logger, [~~or~~] diverter, or
23 renewable biomass aggregator and bio-coal fuel producer who
24 delivers qualified agricultural biomass, forest wood waste, urban
25 wood waste, co-firing biomass, or storm-generated biomass debris to
26 the facility.

27 (f) The department quarterly shall reimburse each operator

1 of a facility described by Subsection (b) for grants under this
2 chapter made by the operator during the preceding quarter to
3 eligible farmers, loggers, [~~and~~] diverters, and renewable biomass
4 aggregators and bio-coal fuel producers. To receive reimbursement
5 for one or more grants, an operator of a facility described by that
6 subsection must file an application with the department that
7 verifies the amount of the grants made by the operator during the
8 preceding quarter for which the operator seeks reimbursement.

9 SECTION 3. This Act takes effect September 1, 2009.