

By: McCall

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 Subdivision (5) and adding Subdivisions (1-a) and (5-a) to read as follows:

(1-a) "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.

(5) "Qualified agricultural biomass" means:

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

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

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

3 (iii) forest wood waste or urban wood  
4 waste, including state designated forest management cuttings and  
5 brush management cuttings from private lands; and

6 (iv) agricultural livestock waste  
7 nutrients; and

8 (B) a crop grown and used specifically for its  
9 energy generation value, including a crop consisting of a  
10 fast-growing tree species.

11 (5-a) "Renewable biomass aggregator and bio-coal fuel  
12 producer" means an operator of an integrated harvesting,  
13 transportation, and fuel conversion facility that aggregates  
14 qualified agricultural or forest biomass and produces renewable  
15 fuel suitable for replacing coal or co-firing with coal.

16 SECTION 2. Section 22.003, Agriculture Code, is amended to  
17 read as follows:

18 Sec. 22.003. GRANT PROGRAM. (a) The department shall  
19 develop and administer an agricultural biomass and landfill  
20 diversion incentive program to make grants to farmers, loggers,  
21 ~~and~~ diverters, and renewable biomass aggregators and bio-coal  
22 fuel producers who provide qualified agricultural biomass, forest  
23 wood waste, urban wood waste, co-firing biomass, or storm-generated  
24 biomass debris to facilities that use biomass to generate electric  
25 energy in order to provide an incentive for the construction of  
26 facilities for that purpose and to:

27 (1) promote economic development;

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

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

7           (4) divert waste from landfills.

8           (b) Subject to Section 22.005, a farmer, logger, [~~or~~]  
9 diverter, or renewable biomass aggregator and bio-coal fuel  
10 producer is entitled to receive a grant in the amount of \$20 for  
11 each bone-dry ton of qualified agricultural biomass, forest wood  
12 waste, urban wood waste, co-firing biomass, or storm-generated  
13 biomass debris provided by the farmer, logger, [~~or~~] diverter, or  
14 renewable biomass aggregator and bio-coal fuel producer in a form  
15 suitable for generating electric energy to a facility that:

16           (1) is located in this state;

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

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

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

25           (5) maintains its emissions control equipment in good  
26 working order; and

27           (6) is in compliance with its operating permit issued

1 by the Texas Commission on Environmental Quality under Chapter 382,  
2 Health and Safety Code.

3 (c) The commissioner by rule may authorize a grant to be  
4 made for providing each bone-dry ton of a type or source of  
5 qualified agricultural biomass, forest wood waste, urban wood  
6 waste, co-firing biomass, or storm-generated biomass debris in an  
7 amount that is greater than the amount provided by Subsection (b) if  
8 the commissioner determines that a grant in a greater amount is  
9 necessary to provide an adequate incentive to use that type or  
10 source of qualified agricultural biomass, forest wood waste, urban  
11 wood waste, co-firing biomass, or storm-generated biomass debris to  
12 generate electric energy.

13 (d) The Public Utility Commission of Texas and the Texas  
14 Commission on Environmental Quality shall assist the department as  
15 necessary to enable the department to determine whether a facility  
16 meets the requirements of Subsection (b) for purposes of the  
17 eligibility of farmers, loggers, ~~and~~ diverters, and renewable  
18 biomass aggregators and bio-coal fuel producers for grants under  
19 this chapter.

20 (e) To receive a grant under this chapter, a farmer, logger,  
21 ~~or~~ diverter, or renewable biomass aggregator and bio-coal fuel  
22 producer must deliver qualified agricultural biomass, forest wood  
23 waste, urban wood waste, co-firing biomass, or storm-generated  
24 biomass debris to a facility described by Subsection (b). The  
25 operator of each facility described by that subsection shall:

26 (1) verify and document the amount of qualified  
27 agricultural biomass, forest wood waste, urban wood waste,

1 co-firing biomass, or storm-generated biomass debris delivered to  
2 the facility for the generation of electric energy; and

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

9 (f) The department quarterly shall reimburse each operator  
10 of a facility described by Subsection (b) for grants under this  
11 chapter made by the operator during the preceding quarter to  
12 eligible farmers, loggers, [~~and~~] diverters, and renewable biomass  
13 aggregators and bio-coal fuel producers. To receive reimbursement  
14 for one or more grants, an operator of a facility described by that  
15 subsection must file an application with the department that  
16 verifies the amount of the grants made by the operator during the  
17 preceding quarter for which the operator seeks reimbursement.

18 (g) The department may contract with and provide for the  
19 compensation of private consultants, contractors, and other  
20 persons to assist the department in administering the agricultural  
21 biomass and landfill diversion incentive program.

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