

1-1 By: McCall, Branch (Senate Sponsor - Seliger) H.B. No. 4031
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 4, 2009, read first time and referred to Committee on Natural
1-4 Resources; May 23, 2009, reported favorably, as amended, by the
1-5 following vote: Yeas 9, Nays 0; May 23, 2009, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Seliger

1-7 Amend H.B. No. 4031 (engrossed version) by adding the
1-8 following appropriately numbered SECTIONS to the bill and
1-9 renumbering subsequent SECTIONS of the bill accordingly:

1-10 SECTION _____. Section 22.004(c), Agriculture Code, is
1-11 amended to read as follows:

1-12 (c) Money in the account may be appropriated only to the
1-13 department for the purpose of implementing, ~~and~~ maintaining, and
1-14 administering the agricultural biomass and landfill diversion
1-15 incentive program.

1-16 SECTION _____. The heading to Section 22.005, Agriculture
1-17 Code, is amended to read as follows:

1-18 Sec. 22.005. LIMITATION ON GRANT AMOUNT; SCHEDULE OF
1-19 PAYMENTS.

1-20 SECTION _____. Section 22.005, Agriculture Code, is amended
1-21 by adding Subsection (c) to read as follows:

1-22 (c) On a determination that money in the agricultural
1-23 biomass and landfill diversion incentive account is insufficient to
1-24 pay reimbursements under Section 22.003 or grants under Section
1-25 22.006, the department, in consultation with interested parties,
1-26 may develop a proportionate and equitable schedule to pay the
1-27 reimbursements or grants. In developing a schedule to pay
1-28 reimbursements or grants under this subsection, the department may
1-29 consider a facility's:

1-30 (1) effect on wages and job creation or job retention;
1-31 (2) level of capital investment; and
1-32 (3) effect on the local economy and the economy of this
1-33 state.

1-34 A BILL TO BE ENTITLED
1-35 AN ACT

1-36 relating to the agricultural biomass and landfill diversion
1-37 incentive program.

1-38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-39 SECTION 1. Section 22.002, Agriculture Code, is amended by
1-40 amending Subdivisions (1) and (5) and adding Subdivisions (1-a) and
1-41 (5-a) to read as follows:

1-42 (1) "Co-firing biomass" means a solid fuel that:
1-43 (A) contains qualified agricultural biomass;
1-44 (B) is produced by a renewable biomass aggregator
1-45 and bio-coal fuel producer; and
1-46 (C) is used to supplement coal combustion for the
1-47 generation of electricity.

1-48 (1-a) "Diverter":

1-49 (A) means:

1-50 (i) a person or facility that qualifies for
1-51 an exemption under Section 361.111 or 363.006, Health and Safety
1-52 Code;

1-53 (ii) a handler of nonhazardous industrial
1-54 waste that is registered or permitted under Chapter 361, Health and
1-55 Safety Code; ~~or~~

1-56 (iii) a facility that separates recyclable
1-57 materials from a municipal solid waste stream and that is
1-58 registered or permitted under Chapter 363, Health and Safety Code,
1-59 as a municipal solid waste management facility; or

1-60 (iv) a renewable biomass aggregator and
1-61 bio-coal fuel producer that operates an integrated harvesting,
1-62 transportation, and solid biofuel conversion facility for

2-1 qualified agricultural biomass; and

2-2 (B) does not include a facility that uses biomass
2-3 to generate electric energy.

2-4 (5) "Qualified agricultural biomass" means:

2-5 (A) agricultural residues that are of a type that
2-6 historically have been disposed of in a landfill, relocated from
2-7 their point of origin and stored in a manner not intended to enhance
2-8 or restore the soil, burned in open fields in the area from which
2-9 they are derived, or burned in fields and orchards that continue to
2-10 be used for the production of agricultural goods, and includes:

2-11 (i) field or seed crop residues, including
2-12 straw from rice or wheat, cotton gin trash, corn stover, grain
2-13 sorghum (milo) harvest residues, sugarcane bagasse, and
2-14 switchgrass;

2-15 (ii) fruit or nut crop residues, including
2-16 orchard or vineyard prunings and removals;

2-17 (iii) forest wood waste or urban wood
2-18 waste, including state designated forest management cuttings and
2-19 brush management cuttings from private lands; and

2-20 (iv) agricultural livestock waste
2-21 nutrients; and

2-22 (B) a crop grown and used specifically for its
2-23 energy generation value, including a crop consisting of a
2-24 fast-growing tree species.

2-25 (5-a) "Renewable biomass aggregator and bio-coal fuel
2-26 producer" means an operator of an integrated harvesting,
2-27 transportation, and fuel conversion facility that aggregates
2-28 qualified agricultural or forest biomass and produces renewable
2-29 fuel suitable for replacing coal or co-firing with coal.

2-30 SECTION 2. Section 22.003, Agriculture Code, is amended by
2-31 amending Subsections (a), (b), (c), (d), (e), and (f) and adding
2-32 Subsection (h) to read as follows:

2-33 (a) The department shall develop and administer an
2-34 agricultural biomass and landfill diversion incentive program to
2-35 make grants to farmers, loggers, ~~and~~ diverters, and renewable
2-36 biomass aggregators and bio-coal fuel producers who provide
2-37 qualified agricultural biomass, forest wood waste, urban wood
2-38 waste, co-firing biomass, or storm-generated biomass debris to
2-39 facilities that use biomass to generate electric energy in order to
2-40 provide an incentive for the construction of facilities for that
2-41 purpose and to:

2-42 (1) promote economic development;

2-43 (2) encourage the use of renewable sources in the
2-44 generation of electric energy;

2-45 (3) reduce air pollution caused by burning
2-46 agricultural biomass, forest wood waste, urban wood waste,
2-47 co-firing biomass, or storm-generated biomass debris in open
2-48 fields; and

2-49 (4) divert waste from landfills.

2-50 (b) Subject to Section 22.005, a farmer, logger, ~~or~~
2-51 diverter, or renewable biomass aggregator and bio-coal fuel
2-52 producer is entitled to receive a grant in the amount of \$20 for
2-53 each bone-dry ton of qualified agricultural biomass, forest wood
2-54 waste, urban wood waste, co-firing biomass, or storm-generated
2-55 biomass debris provided by the farmer, logger, ~~or~~ diverter, or
2-56 renewable biomass aggregator and bio-coal fuel producer in a form
2-57 suitable for generating electric energy to a facility that:

2-58 (1) is located in this state;

2-59 (2) was placed in service after August 31, 2009;

2-60 (3) generates electric energy sold to a third party by
2-61 using qualified agricultural biomass, forest wood waste, urban wood
2-62 waste, co-firing biomass, or storm-generated biomass debris;

2-63 (4) uses the best available emissions control
2-64 technology, considering the technical practicability and economic
2-65 reasonableness of reducing or eliminating the air contaminant
2-66 emissions resulting from the facility;

2-67 (5) maintains its emissions control equipment in good
2-68 working order; and

2-69 (6) is in compliance with its operating permit issued

3-1 by the Texas Commission on Environmental Quality under Chapter 382,
 3-2 Health and Safety Code.

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

3-13 (d) The Public Utility Commission of Texas and the Texas
 3-14 Commission on Environmental Quality shall assist the department as
 3-15 necessary to enable the department to determine whether a facility
 3-16 meets the requirements of Subsection (b) for purposes of the
 3-17 eligibility of farmers, loggers, ~~and~~ diverters, and renewable
 3-18 biomass aggregators and bio-coal fuel producers for grants under
 3-19 this chapter.

3-20 (e) To receive a grant under this chapter, a farmer, logger,
 3-21 ~~or~~ diverter, or renewable biomass aggregator and bio-coal fuel
 3-22 producer must deliver qualified agricultural biomass, forest wood
 3-23 waste, urban wood waste, co-firing biomass, or storm-generated
 3-24 biomass debris to a facility described by Subsection (b). The
 3-25 operator of each facility described by that subsection shall:

3-26 (1) verify and document the amount of qualified
 3-27 agricultural biomass, forest wood waste, urban wood waste,
 3-28 co-firing biomass, or storm-generated biomass debris delivered to
 3-29 the facility for the generation of electric energy; and

3-30 (2) make a grant on behalf of the department in the
 3-31 appropriate amount to each farmer, logger, ~~or~~ diverter, or
 3-32 renewable biomass aggregator and bio-coal fuel producer who
 3-33 delivers qualified agricultural biomass, forest wood waste, urban
 3-34 wood waste, co-firing biomass, or storm-generated biomass debris to
 3-35 the facility.

3-36 (f) The department quarterly shall reimburse each operator
 3-37 of a facility described by Subsection (b) for grants under this
 3-38 chapter made by the operator during the preceding quarter to
 3-39 eligible farmers, loggers, ~~and~~ diverters, and renewable biomass
 3-40 aggregators and bio-coal fuel producers. To receive reimbursement
 3-41 for one or more grants, an operator of a facility described by that
 3-42 subsection must file an application with the department that
 3-43 verifies the amount of the grants made by the operator during the
 3-44 preceding quarter for which the operator seeks reimbursement.

3-45 (h) Notwithstanding Subsection (b)(2), a facility placed in
 3-46 service before August 31, 2009, is eligible for reimbursement under
 3-47 this chapter if another facility placed in operation after August
 3-48 31, 2009, is located 25 miles or less from the existing facility.

3-49 SECTION 3. This Act takes effect September 1, 2009.

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