

**House Bill 4031**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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; [ø€]

(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, as a municipal solid waste management facility; or

(iv) a renewable biomass aggregator and bio-coal fuel producer that operates an integrated harvesting, transportation, and solid biofuel conversion facility for qualified agricultural biomass; and

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

(5) "Qualified agricultural biomass" means:

(A) agricultural residues that are of a type that

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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;

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

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

(iv) agricultural livestock waste nutrients; and

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

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

SECTION 2. Section 22.003, Agriculture Code, is amended by amending Subsections (a), (b), (c), (d), (e),

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and (f) and adding Subsection (h) to read as follows:

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

- (1) promote economic development;
- (2) encourage the use of renewable sources in the generation of electric energy;
- (3) reduce air pollution caused by burning agricultural biomass, forest wood waste, urban wood waste, co-firing biomass, or storm-generated biomass debris in open fields; and
- (4) divert waste from landfills.

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

- (1) is located in this state;

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- (2) was placed in service after August 31, 2009;
  - (3) generates electric energy sold to a third party by using qualified agricultural biomass, forest wood waste, urban wood waste, co-firing biomass, or storm-generated biomass debris;
  - (4) uses the best available emissions control technology, considering the technical practicability and economic reasonableness of reducing or eliminating the air contaminant emissions resulting from the facility;
  - (5) maintains its emissions control equipment in good working order; and
  - (6) is in compliance with its operating permit issued by the Texas Commission on Environmental Quality under Chapter 382, Health and Safety Code.
- (c) The commissioner by rule may authorize a grant to be made for providing each bone-dry ton of a type or source of qualified agricultural biomass, forest wood waste, urban wood waste, co-firing biomass, or storm-generated biomass debris in an amount that is greater than the amount provided by Subsection (b) if the commissioner determines that a grant in a greater amount is necessary to provide an adequate incentive to use that type or source of qualified agricultural biomass, forest wood waste, urban wood waste, co-firing biomass, or storm-generated biomass debris to generate electric energy.
- (d) The Public Utility Commission of Texas and the Texas Commission on Environmental Quality shall assist the department as necessary to enable the department to

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determine whether a facility meets the requirements of Subsection (b) for purposes of the eligibility of farmers, loggers, ~~and~~ diverters, and renewable biomass aggregators and bio-coal fuel producers for grants under this chapter.

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

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

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

(f) The department quarterly shall reimburse each operator of a facility described by Subsection (b) for grants under this chapter made by the operator during the preceding quarter to eligible farmers, loggers, ~~and~~ diverters, and renewable biomass aggregators and bio-

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coal fuel producers. To receive reimbursement for one or more grants, an operator of a facility described by that subsection must file an application with the department that verifies the amount of the grants made by the operator during the preceding quarter for which the operator seeks reimbursement.

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

No equivalent provision.

No equivalent provision.

No equivalent provision.

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SECTION \_\_. Section 22.004(c), Agriculture Code, is amended to read as follows:

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

SECTION \_\_. The heading to Section 22.005, Agriculture Code, is amended to read as follows:

Sec. 22.005. LIMITATION ON GRANT AMOUNT;  
SCHEDULE OF PAYMENTS.

SECTION \_\_. Section 22.005, Agriculture Code, is amended by adding Subsection (c) to read as follows:

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(c) On a determination that money in the agricultural biomass and landfill diversion incentive account is insufficient to pay reimbursements under Section 22.003 or grants under Section 22.006, the department, in consultation with interested parties, may develop a proportionate and equitable schedule to pay the reimbursements or grants. In developing a schedule to pay reimbursements or grants under this subsection, the department may consider a facility's:  
(1) effect on wages and job creation or job retention;  
(2) level of capital investment; and  
(3) effect on the local economy and the economy of this state.

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

Same as House version.