

## **BILL ANALYSIS**

Senate Research Center

H.B. 1090  
By: Swinford et al. (Jackson)  
Natural Resources  
5/10/2007  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Biomass is organic matter that can be processed into energy through power generation or liquid fuels. Sources of biomass include agricultural residues, debris and crops, wood, plants, animal waste, and organic components of municipal and industrial wastes. Biomass is the nation's second largest renewable energy source. Since Texas is one of the nation's leading agricultural states and also claims a large forest industry, it has the potential to be a national leader in biomass power.

H.B. 1090 establishes a program at the Texas Department of Agriculture to provide incentives for the diverter to gather and sell biomass material and for the construction of power plants that generate clean and reliable electricity from biomass.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 1 (Sections 22.003 and 22.007, Agriculture Code) and the Texas Department of Agriculture in SECTION 1 (Section 22.008, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 2, Agriculture Code, by adding Chapter 22, as follows:

#### **CHAPTER 22. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION INCENTIVE PROGRAM**

Sec. 22.001. POLICY AND PURPOSE. Provides that it is the state's policy and the purpose of this chapter to reduce air pollution, improve air quality, protect public health, help this state diversify its energy supply, and divert waste from landfills through new price-support incentives to encourage the construction of facilities that generate electrical energy (energy) with certain types of agricultural residues, waste, debris, or crops.

Sec. 22.002. DEFINITIONS. Defines "diverter," "farmer," "forest wood waste," "logger," "qualified agricultural biomass," "storm-generated biomass debris," and "urban wood waste."

Sec. 22.003. GRANT PROGRAM. (a) Requires the Texas Department of Agriculture (TDA) to develop and administer an agricultural biomass and landfill diversion incentive program (program) to make grants to farmers, loggers, and diverters who provide qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to facilities that use biomass to generate energy in order to provide incentives for the construction of facilities for that purpose and for certain other purposes.

(b) Entitles a farmer, logger, or diverter, subject to Section 22.005, to receive a grant in the amount of \$20 for each bone-dry ton of qualified agricultural biomass and certain types of waste or debris in a form suitable for generating energy to a facility that meets certain criteria.

(c) Authorizes the commissioner of agriculture (commissioner) by rule to authorize a grant to be made for providing each bone-dry ton of a type or source of qualified agricultural biomass, certain types of waste, or 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, waste, or debris to generate energy.

(d) Requires the Public Utility Commission of Texas (PUC) and the Texas Commission on Environmental Quality (TCEQ) to assist TDA as necessary to enable TDA to determine whether a facility meets the requirements of Subsection (b) for purposes of eligibility of farmers, loggers, and diverters for grants under this chapter.

(e) Requires a farmer, logger, or diverter, to receive a grant under this chapter, to deliver qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to a facility described by Subsection (b). Requires the operator of each facility described by that subsection to verify and document the amount of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris delivered to the facility for the generation of electric energy, and to make a grant on behalf of the department in the appropriate amount to each farmer, logger, or diverter who delivers qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to the facility.

(f) Requires TDA quarterly to 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. Requires an operator of a facility described by that subsection, to receive reimbursement for one or more grants, to 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.

(g) Authorizes TDA to contract with and provide for compensations of private consultants, contractors, and other persons to assist TDA in administering the program.

Sec. 22.004. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION INCENTIVE PROGRAM ACCOUNT. (a) Provides that the program account is an account in the general revenue fund, and is composed of legislative appropriations; gifts, grants, donations, and matching funds received under Subsection (b); and other money required by law to be deposited in the account.

(b) Authorizes TDA to solicit and accept gifts in kind, donations, and grants of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this chapter.

(c) Authorizes money to be appropriated to TDA only for the purpose of implementing and maintaining the program.

(d) Requires that income from money in the account to be credited to the account.

(e) Provides that the account is exempt from the application of Section 403.095 (Use of Dedicated Revenue), Government Code.

Sec. 22.005. LIMITATION ON GRANT AMOUNT. (a) Prohibits the total amount of grants awarded by operators of facilities under Section 22.003 and by TDA under Section 22.006 during each state fiscal year from exceeding \$30 million.

(b) Prohibits TDA, during each state fiscal year, from paying to an operator of a facility as reimbursements under Section 22.003 or grants under Section 22.006 an amount that exceeds 20 percent of the total amount of the reimbursements or grants to operators of facilities under those sections during that state fiscal year.

Sec. 22.006. ELIGIBILITY OF OPERATORS OF ELECTRIC ENERGY GENERATION FACILITIES FOR GRANTS. (a) Provides that an operator of a facility that uses biomass to generate energy is not eligible to receive a grant under this chapter or under any other state law for the generation of electric energy with qualified agricultural biomass, waste, or debris for which a farmer, logger, or diverter received a grant under this chapter, except as provided in Subsection (b).

(b) Authorizes an operator of a facility to receive a grant under this chapter for generating energy with qualified agricultural biomass and certain types of waste or debris that arrives at the facility in a form unsuitable for generating electric energy and that the facility processes into a form suitable for generating electric energy.

(c) Requires an operator of a facility to file an application with TDA that verifies the amount of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris that the facility processed into a form suitable for generating electric energy to receive a grant from TDA under Subsection (b). Requires TDA to make grants to eligible operators of facilities quarterly, subject to appropriations. Provides that the provisions governing grants to farmers, loggers, and diverters, including the provisions governing the amount of a grant, apply to a grant from TDA under Subsection (b) to the extent they can be made applicable.

Sec. 22.007. RULES. Requires the commissioner, in consultation with PUC and TCEQ, to adopt rules to implement this chapter.

Sec. 22.008. AVAILABILITY OF FUNDS. Provides that TDA is not required to administer this chapter or adopt rules and the operator of a facility described by Section 22.003(b) is not required to make a grant on behalf of TDA, until funds are appropriated for those purposes.

Sec. 22.009. EXPIRATION OF PROGRAM AND CHAPTER. Provides that the program terminates on August 31, 2019. Requires that on September 1, 2019, funds remaining in the program account that are not obligated be transferred to the undedicated portion of the general revenue fund, and provides that the chapter expires on that date.

SECTION 2. Effective date: September 1, 2007.