

Agricultural Biomass and Landfill Diversion Incentive

This Act establishes a program to provide grants to farmers, loggers, and others who provide agricultural biomass to facilities in the state that generate electric energy and use the best available emissions control technology.

The bill entitles farmers, loggers, or diverters \$20 per each ton of bone-dry agricultural biomass suitable for biomass conversion. The bill authorizes the department of agriculture to grant no more than \$30 million each fiscal year. The grants to the farmers, loggers, and diverters will be made by the operators of the electric generation facilities. Operators that process unsuitable biomass into a form suitable for producing electric energy are also eligible for grants under this program. The bill provides that the facility operators are reimbursed on a quarterly basis by department of agriculture, after filing out an application with the agency that verifies the amount of qualified agricultural biomass processed into a form suitable for generating electric energy. The bill limits the amount an operator can receive to no more than \$6 million.

This Act creates an Agricultural Biomass and Landfill Diversion Incentive Program Account in the state General Revenue Fund, consisting of money transferred to the account at the direction of the Legislature, gifts, grants, donations and money from any other sources to be used by the department of agriculture to implement the incentive program.

Submitted as:

Texas

[HB1090 \(Enrolled version\)](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act can be cited as “An Act to Create an Agricultural
2 Biomass and Landfill Incentive Program.”

3
4 Section 2. [*Definitions.*] As used in this [chapter]:

5 (1) “Farmer” means the owner or operator of an agricultural facility that produces
6 qualified agricultural biomass.

7 (2) “Logger” means a harvester of forest wood waste, regardless of whether the harvesting
8 occurs as a part of the harvesting of merchantable timber.

9 (3) “Diverter” means:

10 (A) a person or facility that qualifies for an exemption under [insert citation];

11 (B) a handler of nonhazardous industrial waste that is registered or permitted under
12 [insert citation]; or

13 (C) a facility that separates recyclable materials from a municipal solid waste
14 stream and that is registered or permitted under [insert citation] as a municipal solid waste
15 management facility; and

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

17 (4) “Forest wood waste” includes residual tops and limbs of trees, unused cull trees, pre-
18 commercial thinnings, and wood or debris from noncommercial tree species, slash, or brush.

19 (5) “Qualified agricultural biomass” means:

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

- 24 (i) field or seed crop residues, including straw from rice or wheat;
25 (ii) fruit or nut crop residues, including orchard or vineyard prunings and
26 removals;
27 (iii) forest wood waste or urban wood waste; and
28 (iv) agricultural livestock waste nutrients; and

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

31 (6) “Storm-generated biomass debris” means biomass-based residues that result from a
32 natural weather event, including a hurricane, tornado, or flood, that would otherwise be disposed
33 of in a landfill or burned in the open. The term includes:

34 (A) trees, brush, and other vegetative matter that have been damaged or felled by
35 severe weather but that would not otherwise qualify as forest wood waste; and

36 (B) clean solid wood waste that has been damaged by severe weather but that
37 would not otherwise qualify as urban wood waste.

38 (7) “Urban wood waste” means:

39 (A) solid wood waste material, other than pressure-treated, chemically treated, or
40 painted wood waste, that is free of rubber, plastic, glass, nails, or other inorganic material; and

41 (B) landscape or right-of-way trimmings.

42
43 Section 3. [*Agricultural Biomass and Landfill Diversion Incentive Program.*]

44 (a) The [department] shall develop and administer an Agricultural Biomass and Landfill
45 Diversion Incentive Program to make grants to farmers, loggers, and diverters who provide
46 qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass
47 debris to facilities that use biomass to generate electric energy in order to provide an incentive for
48 the construction of facilities for that purpose and to:

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

54 (b) Subject to Section 5 of this Act, a farmer, logger, or diverter is entitled to receive a
55 grant in the amount of [\$20] for each bone-dry ton of qualified agricultural biomass, forest wood
56 waste, urban wood waste, or storm-generated biomass debris provided by the farmer, logger, or
57 diverter in a form suitable for generating electric energy to a facility that:

- 58 (1) is located in this state;
59 (2) was placed in service after [August 31, 2009];
60 (3) generates electric energy sold to a third party by using qualified agricultural
61 biomass, forest wood waste, urban wood waste, or storm-generated biomass debris;
62 (4) uses the best available emissions control technology, considering the technical
63 practicability and economic reasonableness of reducing or eliminating the air contaminant
64 emissions resulting from the facility;
65 (5) maintains its emissions control equipment in good working order; and
66 (6) is in compliance with its operating permit issued by the [Commission on
67 Environmental Quality] under [insert citation].

68 (c) The [commissioner] by rule may authorize a grant to be made for providing each bone-
69 dry ton of a type or source of qualified agricultural biomass, forest wood waste, urban wood
70 waste, or storm-generated biomass debris in an amount that is greater than the amount provided by
71 Subsection (b) if the [commissioner] determines that a grant in a greater amount is necessary to
72 provide an adequate incentive to use that type or source of qualified agricultural biomass, forest
73 wood waste, urban wood waste, or storm-generated biomass debris to generate electric energy.

74 (d) The [Public Utility Commission] and the [Commission on Environmental Quality] shall
75 assist the [department] as necessary to enable the [department] to determine whether a facility
76 meets the requirements of Subsection (b) for purposes of the eligibility of farmers, loggers, and
77 diverters for grants under this [chapter].

78 (e) To receive a grant under this [chapter], a farmer, logger, or diverter must deliver
79 qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass
80 debris to a facility described by Subsection (f). The operator of each facility described by that
81 subsection shall:

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

85 (2) make a grant on behalf of the [department] in the appropriate amount to each
86 farmer, logger, or diverter who delivers qualified agricultural biomass, forest wood waste, urban
87 wood waste, or storm-generated biomass debris to the facility.

88 (f) The [department] [quarterly] shall reimburse each operator of a facility described by
89 Subsection (b) for grants under this [chapter] made by the operator during the [preceding quarter]
90 to eligible farmers, loggers, and diverters. To receive reimbursement for one or more grants, an
91 operator of a facility described by that subsection must file an application with the [department]
92 that verifies the amount of the grants made by the operator during the preceding quarter for which
93 the operator seeks reimbursement.

94 (g) The [department] may contract with and provide for the compensation of private
95 consultants, contractors, and other persons to assist the [department] in administering the
96 Agricultural Biomass and Landfill Diversion Incentive Program.

97
98 Section 4. *[Agricultural Biomass and Landfill Diversion Incentive Program Account.]*

99 (a) There is created an [Agricultural Biomass and Landfill Diversion Incentive Program
100 Account] as an account in the [General Revenue Fund]. The account is composed of:

101 (1) legislative appropriations;

102 (2) gifts, grants, donations, and matching funds received under Subsection (b); and

103 (3) other money required by law to be deposited in the account.

104 (b) The [department] may solicit and accept gifts in kind, donations, and grants of money
105 from the federal government, local governments, private corporations, or other people to be used
106 for the purposes of this [chapter].

107 (c) Money in the account may be appropriated only to the [department] for the purpose of
108 implementing and maintaining the Agricultural Biomass and Landfill Diversion Incentive
109 Program.

110 (d) Income from money in the account shall be credited to the account.

111 (e) The account is exempt from the [insert citation].

112
113 Section 5. *[Limitation on Grant Amount.]*

114 (a) The total amount of grants awarded by operators of facilities under this [chapter] during
115 each state fiscal year shall not exceed [\$30 million].

116 (b) During each state fiscal year, the [department] may not pay to an operator of a facility
117 as reimbursements under this [chapter] an amount that exceeds [\$6 million].
118

119 Section 6. [*Eligibility of Operators of Electric Energy Generation Facilities for Grants.*]

120 (a) Except as provided by Subsection (b), an operator of a facility that uses biomass to
121 generate electric energy is not eligible to receive a grant under this [chapter] or under any other
122 state law for the generation of electric energy with qualified agricultural biomass, forest wood
123 waste, urban wood waste, or storm-generated biomass debris for which a farmer, logger, or
124 diverter has received a grant under this [chapter].

125 (b) An operator of a facility that uses biomass to generate electric energy may receive a
126 grant from the [department] under this [chapter] for generating electric energy with qualified
127 agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris
128 that arrives at the facility in a form unsuitable for generating electric energy and that the facility
129 processes into a form suitable for generating electric energy.

130 (c) To receive a grant from the department under Subsection (b), an operator of a facility
131 must file an application with the [department] that verifies the amount of qualified agricultural
132 biomass, forest wood waste, urban wood waste, or storm-generated biomass debris that the facility
133 processed into a form suitable for generating electric energy. The [department] shall make grants
134 to eligible operators of facilities quarterly, subject to appropriations. The provisions of this
135 [chapter] governing grants to farmers, loggers, and diverters, including the provisions governing
136 the amount of a grant, apply to a grant from the department under Subsection (b) to the extent they
137 can be made applicable.
138

139 Section 7. [*Rules.*] The [commissioner], in consultation with the [Public Utility
140 Commission] and the [Commission on Environmental Quality], shall adopt rules to implement this
141 [chapter].
142

143 Section 8. [*Availability of Funds.*] Notwithstanding any other provision of this [chapter],
144 the [department] is not required to administer this [chapter] or adopt rules under this [chapter], and
145 the operator of a facility is not required to make a grant on behalf of the [department], until funds
146 are appropriated for those purposes.
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148 Section 9. [*Expiration of Program and Chapter.*] The Agricultural Biomass and Landfill
149 Diversion Incentive Program terminates on [August 31, 2019]. On [September 1, 2019] any
150 unobligated funds remaining in the Agricultural Biomass and Landfill Diversion Incentive
151 Program Account shall be transferred to the undedicated portion of the [General Revenue Fund];
152 and this [chapter] expires.
153

154 Section 10. [*Severability.*] [Insert severability clause.]
155

156 Section 11. [*Repealer.*] [Insert repealer clause.]
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158 Section 12. [*Effective Date.*] [Insert effective date.]