

SUBJECT: Grants to encourage electric energy generation with biomass materials

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 6 ayes — Miller, Anderson, B. Brown, Aycock, Garcia, Heflin

0 nays

1 absent — Gallego

WITNESSES: For — Bill Brod, The AES Corporation; Anthony Callendrello, Nacogdoches Power; Rachel Fischer, Public Citizen; Judy McDonald, Nacogdoches Economic Development Corporation; John Pitts Jr., Texas Renewable Energy Industries Association; Cyrus Reed, Lone Star Chapter of the Sierra Club; John M. Robins, Mesquite Fuel and Agriculture; Stan Sisco, Nacogdoches Economic Development Corporation; Jim Wehmeier, City of Lufkin/Angelina County Economic Development (*Registered, but did not testify*: Warren Mayberry, Texas Farm Bureau)

Against — None

DIGEST: CSHB 1090 would establish an agriculture biomass and landfill diversion incentive program at the Texas Department of Agriculture (TDA). The program would distribute incentive grants to encourage electric energy generation with certain types of biomass materials.

**Grants for qualifying biomass.** TDA would make grants available to farmers, loggers, and diverters for qualifying biomass, which would include the following:

- ***qualified agricultural biomass***: agricultural residues generally deposited in landfills, stored in a manner that did not enhance soil, or burned such as field or seed crop residues, fruit or nut crop residues, wood products; and a crop grown specifically for its energy generation value.
- ***storm-generated biomass debris***: biomass-based residues resulting from a natural weather event that otherwise would be deposited in a landfill or burned.

- ***forest wood waste***: wood or debris from noncommercial tree species, slash or brush.
- ***urban wood waste***: solid wood waste material that was free of inorganic materials; and landscape or right-of-way trimmings.

To receive a grant, a farmer, logger, or diverter would deliver qualifying biomass to certain facilities and would be eligible for a grant of \$20 for each ton of the qualifying biomass if it were delivered in a form suitable for electric energy generation. The agriculture commissioner could distribute grants greater than \$20 per ton if the commissioner determined it was necessary to encourage the submission of qualifying biomass.

The grants would serve as an incentive for the construction of facilities that use biomass to generate electric energy and to:

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

**Electric energy facilities.** The materials would be delivered to a facility that:

- was located in Texas ;
- was first operational after August 31, 2009;
- generated electric energy sold to a third party by using qualifying biomass materials;
- used the best available emissions control technology, with consideration of the technical and economic practicality of reducing the facility's air contaminant emissions;
- maintained emissions control equipment in working order; and
- was in compliance with its operating permit, as issued by the Texas Commission on Environmental Quality (TCEQ)

The Public Utility Commission of Texas (PUC) and TCEQ would assist TDA in determining whether or not a facility met the above requirements. Qualifying facilities would verify and document the amount of qualifying biomass delivered for electric energy, and the facilities would make a

grant to the farmer, logger or diverter on behalf of TDA. Each quarter, TDA would reimburse facility operators for grant distribution.

The facility operator would be eligible for a grant if the biomass material arrived in a form unsuitable for electric energy generation and the facility thereafter processed it into a suitable form. The operator would not be eligible for a grant for biomass materials if a farmer, logger, or diverter had already received a grant for the same materials. The grant provisions that applied to farmers, loggers, and diverters also would apply to facility operators, including grant amounts.

**Program administration and accounting.** TDA, TCEQ, and PUC would adopt rules jointly to implement this legislation. TDA and qualifying facility operators would not follow provisions set forth in this legislation until funds were appropriated for such purposes. TDA could contract with private consultants, contractors, and other individuals for help administering the program.

The total grant amount awarded by facility operators and TDA would not exceed \$30 million per year. The general revenue fund would include an account for the agricultural biomass and landfill diversion program, with money used solely for that purpose. The account would include:

- legislative appropriations ;
- gifts, grants, donations, and matching funds received by TDA from the federal government, local governments, private corporations, or other individuals; and
- other money required by law to be deposited in this account.

Income from money in the account would be credited to the account. The account would be exempt from Government Code, sec. 403.095, which permits the comptroller to make account reductions and develop accounting and revenue estimating procedures

The agriculture biomass and landfill diversion incentive program would expire on August 31, 2019. On September 1, 2019, any remaining program funds would be transferred to the undedicated portion of the general revenue fund.

The bill would take effect September 1, 2007.

SUPPORTERS  
SAY:

CSHB 1090 would help spur economic development across the state. Texas is the nation's second-largest agricultural producing state and boasts a large forest industry. Consequently, Texas is an ideal location to promote the conversion of biomass into energy. New markets for Texas' agricultural industry would emerge as a result of this program. The bill also would promote job creation in the operation of biomass facilities. Many of these facilities would be based in small communities near biomass sources and would serve to promote rural economic development. The bill's potential positive economic and environmental impact would more than outweigh its cost.

Emissions from fossil fuel plants often generate harmful air contaminants, posing serious health risks for Texans. In contrast, biomass constitutes a renewable and reliable energy source, capable of generating clean electricity 24 hours a day. The use of biomass as opposed to conventional fossil fuels can reduce the generation of greenhouse gases that contribute to climate change. The alternative biomass and landfill diversion incentive program would help to jump-start biomass energy generation in Texas. The bill would offer lawmakers a rare "win-win-win" opportunity, as producers, consumers and the environment would stand to benefit.

Facilities specializing in biomass energy production are expensive to build and require a sustainable source of biomass for use as fuel. The facilities would be assured a reliable and cheap biomass supply if grants were distributed to farmers, loggers, and diverters for biomass production. Many plants across the United States now are burning biomass with other fossil fuels, such as coal. Biomass can be substituted for up to 5 percent of coal at a low incremental cost, while up to 15 percent is possible with moderate plant upgrades. The program would make biomass a more economically feasible source of energy in both conventional and non-conventional energy production.

CSHB 1090 would benefit the environment by diverting waste from landfills and reducing the amount of refuse openly burned. Currently, biomass materials are considered a burden to farmers, loggers, landowners and communities. Wood waste often is the primary substance in landfills. The timber-rotting process results in methane emissions that contribute to global warming. In storms such as Hurricane Rita, thousands of trees fell in East Texas and were disposed of at government expense. Instead of inconveniencing the state and local communities, these moribund materials could be used to produce energy.

Texas needs another source of energy. Standard fuel prices are subject to price increases. By promoting biomass production, the state's energy sources would be more diverse and consumers would see a drop in energy prices. Moreover, the use of biomass for energy production would contribute to national and regional energy security.

CSHB 1090 would ensure that biomass was not obtained by cutting down trees. At the same time, the proposed legislation would help the state's timber industry by giving loggers another market for their products.

Currently, the Texas Department of Agriculture is not prepared to oversee an agricultural biomass and landfill diversion program. If the bill is passed, the program would begin in 2009. This time period would provide TDA with an opportunity to prepare to facilitate the program. Also, the start date would give the Legislature more time to consider program funding.

**OPPONENTS  
SAY:**

The life cycle of biomass should be evaluated to determine its true environmental impact in energy production. Although biomass is renewable, readying it for use as an energy source still could contribute to global warming. For instance, the process of transporting biomass to production facilities can lead to increased emissions of air contaminants and carbon dioxide.

Currently, a market for certain forms of energy production exists. A government program should not distribute economic incentives to alter this market. Instead, market forces should determine the production and use of certain fuel sources. When biomass becomes a viable economic option for energy production, the market will demand it.

**NOTES:**

According to the Legislative Budget Board, the bill would result in an estimated cost in general revenue-related funds of \$94,402 in fiscal 2009.

The companion bill, SB 357 by Jackson, was considered in a public hearing by the Natural Resources Committee on April 26 after being reported favorably, as substituted, by the Subcommittee on Agriculture, Rural Affairs, and Coastal Resources.