

## BILL ANALYSIS

Senate Research Center  
80R3615 SMH-D

S.B. 357  
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S/C on Agriculture, Rural Affairs, & Coastal Resources  
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As Filed

### 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.

As proposed, S.B. 357 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) 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. Specifies 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 incentives to encourage the construction of facilities that generate electrical energy (energy) with certain type 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 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 this section for purposes of eligibility of farmers, loggers, and diverters for grants under this chapter.

(e) Requires a farmer, logger, or diverter to file an application with TDA, on a form prescribed by TDA, to determine grant eligibility. Requires the form to require the applicant to provide the information necessary to determine whether the applicant is entitled to receive a grant and the amount of the grant.

(f) Requires TDA to provide for the distribution of grant money under this chapter to eligible farmers, loggers, and diverters. Requires grant money to be distributed to eligible farmers, logger, and diverters in the order in which applications for the grants are received. Requires TDA to make grants not less than quarterly and subject to appropriations.

(g) Authorizes TDA to contract with and provide for compensations of private consultants, contractors, and other persons to administer 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. Prohibits the total amount of grants awarded in each state fiscal year from exceeding \$30 million.

Sec. 22.06. ELIGIBILITY OF ELECTRICAL ENERGY-GENERATION FACILITIES FOR GRANTS. (a) Provides that a facility that uses biomass to generate energy is not eligible to receive a grant under this chapter or under any other state law, except as provided in Subsection (b).

(b) Authorizes 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 energy, and that the facility processes into a form suitable for generating energy.

(c) Provides that the provisions governing grants to farmers, loggers, and diverters, including the provisions governing the amount of a grant, apply to a grant under Subsection (b) to a facility that uses biomass to generate energy.

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 until funds are appropriated for those purposes.

Sec. 22.009. EXPIRATION OF PROGRAM AND CHAPTER. Provides that the program terminates on August 31, 2022. Requires that on September 1, 2022, 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.