



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 276*

129th General Assembly

(As Reported by H. Agriculture and Natural Resources)

Reps. Buchy and Gentile, Hall, Derickson, Peterson, Balderson, Boose, Ruhl, Murray, O'Brien, Huffman, Grossman, Amstutz, Hackett, Maag, Gonzales, R. Adams, Johnson, Yuko, Fende

BILL SUMMARY

- Revises the definition of "land devoted exclusively to agricultural use" for purposes of the statutes that govern current agricultural use valuation of real property for real property tax assessment to include land devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production under certain circumstances.
- Defines "biodiesel," "biomass energy," "electric or heat energy," and "biologically derived methane gas."
- States that county and township zoning laws confer no authority to prohibit the use of any land for biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production under specified circumstances.
- Authorizes the Director of Agriculture to establish best management practices for such production at a concentrated animal feeding facility.
- Revises the definitions of "agriculture," "agricultural purposes," "agricultural production," and "land devoted exclusively to agricultural use" to include "algaculture meaning the farming of algae" in state statutes governing agriculture generally as well as in specified state statutes.

* This analysis was prepared before the report of the House Agriculture and Natural Resources Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Defines "algacultural product," and includes the term in the definitions of "agricultural product" and "farm product" as used in specified areas of law.

CONTENT AND OPERATION

Production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas

Current agricultural use valuation

For purposes of the statutes that govern current agricultural use valuation of real property for real property tax assessment, current law defines "land devoted exclusively to agricultural use" to mean land devoted exclusively to specified activities or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government. The bill adds biodiesel production, biomass energy production, electric or heat energy production, and biologically derived methane gas production to the specified activities in the definition as long as the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provided that at least 50% of the feedstock used in the production was derived from parcels of land under common ownership or leasehold.¹

It then defines all of the following terms:

"Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats or any combination of those reagents and that meets the American Society for Testing and Materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

"Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.

"Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.

"Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.²

¹ R.C. 5713.30(A).

² R.C. 5713.30(G) to (J).

The bill clarifies that in order for land to qualify as land devoted exclusively to agricultural use, the land can be devoted exclusively to specified activities as discussed above, devoted to and qualified for payments or other compensation under a federal land retirement or conservation program, or a combination of both.³

County and township zoning

The bill states that the County Rural Zoning and Township Zoning Laws confer no power on a board of county commissioners, county rural zoning commission, board of zoning appeals, township zoning commission, or board of township trustees, as applicable, to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses the use of any land for biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use for real property tax purposes as discussed above.⁴

Concentrated animal feeding facilities

Under current law, the Director of Agriculture is authorized to adopt rules establishing best management practices regarding specified activities that occur at a concentrated animal feeding facility (CAFF). The bill adds the production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas to the list of specified activities for which the Director may establish best management practices at a CAFF.⁵

Algaculture

General inclusion in laws governing agriculture

The bill includes "algaculture meaning the farming of algae" in the definition of "agriculture" that is generally used throughout state statutes.⁶ Applicable areas of law in which the term "agriculture" is used include the laws governing the biobased product program, the bioproducts development program, agricultural financing, agriculture security areas, the farm laborers' association, disparagement of agricultural food products, the Ohio Agricultural Research and Development Center, and the sales tax.

³ R.C. 5713.30(A).

⁴ R.C. 303.21(C)(2) and 519.21(C)(2).

⁵ R.C. 903.10(C).

⁶ R.C. 1.61.

Additionally, the bill adds "algaculture meaning the farming of algae" to the definitions of "agriculture" that apply to county and township zoning.⁷

Additional inclusion of "algaculture" in state laws

The bill includes "algaculture meaning the farming of algae" in the definition of "agricultural production" in the statutes that govern agricultural districts; in the definition of "agricultural purposes" in the statutes that govern exemptions from building standards and leases of real property acquired for state highways; and in the definition of "land devoted exclusively to agricultural use" in the statutes that govern current agricultural use valuation as discussed above.⁸

Inclusion of "algacultural products" in specified areas of law

Under the bill, "algacultural product" means algal paste, algal powder, or dried algae that is comprised primarily of algal biomass.⁹ "Algacultural product" is included in the definitions of "agricultural product" in the statutes that govern agricultural terrorism, agricultural product liens, and cooperatives.¹⁰ Additionally, "algacultural product" is included in the definition of "farm products" in the statutes governing secured transactions.¹¹

HISTORY

ACTION	DATE
Introduced	06-21-11
Reported, H. Agriculture & Natural Resources	---

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⁷ R.C. 303.01 and 519.01.

⁸ R.C. 929.01(A), 3781.06(C)(1), 5501.50(A), and 5713.30(A)(1) and (2).

⁹ R.C. 901.511(A)(2).

¹⁰ R.C. 901.511(A)(1), 1311.55(A)(1), and 1729.01(B).

¹¹ R.C. 1309.102(A)(34)(a)(iii) and 1311.55(A)(1).

