

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2234

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2022

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2234.

This bill would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent storage of the captured carbon dioxide. Concrete that meets both

criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, for invitations to bid that are issued in the first five years after the bill's effective date, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the procuring agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of section 1 of the bill, including global warming potential baselines for

concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

As reported by the committee, Assembly Bill No. 2234 (ACS) is identical to Senate Bill No. 287 (SCS) (1R) as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that providing CBT and GIT credits to concrete producers and certain other taxpayers would result in an annual State revenue loss over a multi-year period from the newly established incentive program.

The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annual per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply for and qualify for the CBT and GIT credits. However, the Statewide annual amount of all the tax credits established by the bill would be limited to \$10 million.

The OLS also determines that this bill would increase the administrative workload of the DEP and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.