SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3732

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3732 (1R).

This bill would provide a corporation business tax (CBT) credit to concrete producers that deliver certain forms of concrete associated with reduced greenhouse gas emissions, pursuant to a contract (or subcontract) with a State Agency, which is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete . The bill would also provide a CBT credit to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses.

Specifically, the bill would authorize a CBT credit for the delivery of low embodied carbon concrete of up to five percent of the cost of the concrete, and a CBT credit for the delivery of concrete that incorporates carbon capture, utilization, and storage technology of up to three percent of the cost of the concrete. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the concrete. The actual amount of the CBT credit would be determined using a formula to be developed by the Department of Environmental Protection (DEP) pursuant to section 3 of the bill, which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of concrete used.

In order to qualify for the CBT credit, the concrete producer would be required to submit a certified environmental product declaration to the DEP that provides a global warming potential score for the concrete used. The bill would also establish certain additional requirements to receive the credit, as enumerated in subsection d. of section 1 of the bill. A concrete producer could not receive a CBT credit greater than $1 million annually. In addition, the Statewide amount of the tax credit would be capped at $10 million annually.

In 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 concrete, a State agency would be required to include in the invitation to bid, where relevant, 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 credit

established by the bill. If the 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 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 require any agency or department of State government that purchases 50 cubic yards or more of concrete, or undertakes any construction or improvement project that requires the use 50 cubic yards or more of concrete, to follow the rules, regulations, and guidelines established by DEP pursuant to section 3 of the bill.

The bill would also provide a CBT credit to compensate a taxpayer that produces concrete or a major component of concrete for costs incurred as a result of conducting an environmental product declaration analysis to determine the product-based embodied carbon emissions of concrete produced at one or more production facilities 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. However, a taxpayer may claim the credit authorized under the bill 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.

The bill would require the DEP, in consultation with the State Treasurer, to adopt rules and regulations to implement the bill. The bill would establish certain minimum contents for the rules and regulations, as enumerated in subsection a. of section 3 of the bill, including guidelines to assist concrete producers and State agencies to comply with the bill.

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 the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated from the concrete manufacturing process from the flue gas or from the atmosphere, and the recycling of the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or safe and permanent storage of the captured carbon dioxide. 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.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that the bill would result in an annual revenue decrease to the General Fund, since it authorizes two new CBT tax credits for concrete producers in the State. The OLS cannot quantify the extent of this decrease, since it is unclear how many concrete producers will be eligible for the tax credits. In addition, the amount of one tax credit is dependent on formulae to be developed by the Department of Environmental Protection (DEP) and so the revenue loss cannot be projected. The OLS notes, however, that the CBT tax credit for the delivery of low carbon concrete is capped by the bill at $10 million annually Statewide. The CBT tax credit for conducting an environmental product declaration analysis is not subject to a Statewide cap, although it is capped at $24,000 annually for each concrete producer. According to information provided to the OLS, there only a few dozen concrete producers in the State, so it is likely that the total extent of this CBT tax credit would not exceed around $1 million annually.

The OLS also determines that this bill would increase the administrative workload of the DEP, but it is likely that these tasks can be subsumed within existing resources and using current staff.