

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 3091**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 21, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3091 (1R), with committee amendments.

As amended, this bill would require builders to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives, and State and local government purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology.

Under the bill, a “unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection (DEP), or an independent third party authorized by the DEP, as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. These products would also be required to conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures. A “unit concrete product” is a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” does not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

The bill would require a builder, for any new construction that requires the use of unit concrete products, where technically feasible, to offer as an option unit concrete products that utilize carbon footprint-reducing technology in the new construction. This requirement would apply whenever a prospective client enters into negotiations with a builder to construct or purchase a new residential dwelling or commercial building in the State, except that

this would not apply to the construction of certain condominiums, attached single-family townhouses, row houses.

Under the bill, the builder would be required to disclose in writing certain information about the cost and environmental benefits of unit concrete products that utilize carbon footprint-reducing technology, and tax incentives available under the bill. The bill would require the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide builders with information concerning the tax incentives established in the bill.

Under the bill, receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State would be exempt from the State Sales and Use Tax. The bill would also provide both corporation business tax credits and gross income tax credits for persons who purchase and install unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased and installed. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. In order to qualify for a tax credit, a person would be required to install at least 100 square feet of qualified unit concrete products.

The bill would require the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, wherever feasible, to use or require the use of unit concrete products that utilize carbon footprint-reducing technology. This requirement would apply whenever a State agency enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. The Division of Purchase and Property and the Division of Property Management and Construction, in consultation with the DEP, would be required to publish guidelines for implementing this requirement. A State agency would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology.

The bill would also require a local contracting unit, whenever feasible, to use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers. This requirement would apply whenever a local contracting unit enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. Under the bill, the Director of the Division of Local Government Services, in consultation with the DEP, would be required to publish guidelines for implementing the requirement. In preparing specification for a contract, a local unit would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology.

The bill would require the Department of Transportation to establish a implement a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the “Special Transportation fund” established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21). The bill would also require any person or entity that purchases unit concrete products, or that undertakes any construction or improvement that requires the use of unit concrete products, including the replacement of impervious surface with permeable pavement, to use unit concrete products that utilize carbon footprint-reducing technology, if the project is financed, in whole or in part, with State funds.

Finally, the bill would require the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. The DEP would be required to consider a consensus evaluation and reporting standard, developed by an independent private organization, that creates a uniform system for self-evaluation and self-reporting by unit concrete product manufacturers, and would give preference to a standard supported by the unit concrete product industry or industry associations.

The committee amendments to the bill:

(1) replace, in section 2 of the bill, the terms “developer” and “prospective purchaser” with “builder” and “prospective client”;

(2) amend, throughout the bill, the definition of “unit concrete product that utilizes carbon footprint-reducing technology” to

specify that such products are required to also conform with certain relevant requirements of the “State Uniform Construction Code Act”;

(3) provide that the requirements of section 2 of the bill do not apply to the construction of certain condominiums, attached single-family townhouses, row houses;

(4) provide, in section 2 of the bill, that developers shall provide certain specified information in writing to prospective clients, rather than in any advertising;

(5) remove the State and local purchasing preferences in sections 6 through 8 of the bill, and instead require State and local entities to use unit concrete products that utilize carbon footprint-reducing technology when entering into certain contracts, whenever feasible; and

(6) require State and local entities to include in their project specifications a specific line item for each unit concrete product to be used in a project.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill’s requirements to publish materials, modify contracting practices, and establish programs that either require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill’s requirements; thus, the magnitude of the annual expenditure increase is indeterminate.

Further, the bill’s exemption of unit concrete products that utilize carbon footprint-reducing technology from the State’s Sales and Use tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State’s General Fund and Property Tax Relief Fund by an indeterminate amount annually.

The OLS notes that those products may not be as prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill’s enactment. Likewise, the OLS anticipates fewer applications for the bill’s tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State’s annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.