Sponsored by:
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS
Establishes State purchasing preference for low embodied carbon concrete; provides CBT tax credit for costs of conducting environmental product declaration analysis.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the purchase and use of low embodied carbon concrete and supplementing Titles 52 and 54 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. (1) Notwithstanding the provisions of any law, or rule or regulation adopted pursuant thereto, to the contrary, the Director of the Division of Purchase and Property and the Director of the Division of Property Management and Construction in the Department of the Treasury, and any State agency having authority to contract for the purchase of goods or services, shall, when entering into a 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, apply a low embodied carbon discount rate to the price of bids for the purpose of bid assessment and selection. The low embodied carbon discount rate shall be established by the State Treasurer in consultation with the Commissioner of Environmental Protection and shall be applied to bid prices on the basis of the global warming potential values for the concrete specified in the bids, and shall not exceed five percent of the total bid price. Bidders shall submit global warming potential values for the concrete specified in their bids in the form of certified environmental product declarations. The State Treasurer shall establish the specific price discount rates to be applied to bids based on global warming potential values.

(2) For bids that are certified to use concrete that incorporates carbon capture, utilization, and storage technology, 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 shall apply a supplemental discount rate to the price of bids for the purpose of bid assessment and selection. The carbon capture, utilization, and storage discount rate, to be established by the State Treasurer in consultation with the Commissioner of Environmental Protection, shall be added to the low embodied carbon discount rate applied pursuant to paragraph (1) of this subsection and shall not exceed three percent of the total bid price. The State Treasurer shall establish the specific price discount rates to be applied to bids based on the amount of carbon dioxide captured and stored by the concrete.

(3) For State-funded construction projects that will be completed by a private contracting firm that has been contracted by the State, and for which concrete will be procured by the contractor for the project, the contractor shall comply with the selection standards and rules established pursuant to this section when subcontracting products or services from concrete providers. The State Treasurer...
shall establish policies and procedures for private contracting firms to comply with the requirements of this section.

(4) For bids that include multiple concrete mixes, the global warming potential of all the mixes shall be proportionally weighted into a single global warming potential score that will serve as the basis for assessment and selection of the bid.

b. The State Treasurer, in consultation with the Commissioner of Environmental Protection, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the price discount rates established pursuant to subsection a. of this section. The rules and regulations shall include, but need not be limited to:

(1) a uniform process for contractors to certify that concrete is low embodied carbon concrete, or that it utilizes carbon capture, utilization, and storage technology, and for determining the global warming potential value of concrete;

(2) guidelines to assist State agencies in determining which contracts meet the requirements of this section, and the rules and regulations adopted pursuant thereto;

(3) guidelines for training contracting personnel to implement the requirements of this section; and

(4) a mechanism for monitoring contractor compliance with the requirements of this section, and penalties for noncompliance.

Whenever any agency or department of State government purchases concrete, or undertakes any construction or improvement project that requires the use of concrete, the agency or department shall follow the rules, regulations, and guidelines therefor established by State Treasurer.

c. 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, 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 shall 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 shall receive the price discount rate established pursuant to subsection a. of this section.

d. The provisions of this section shall not apply to:

(1) any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L. , c. (pending before the Legislature as this bill);

(2) bid packages advertised and made available to the public, or to any competitive and sealed bids received by the State, prior to the effective date of P.L. , c. (pending before the Legislature as this bill); or
(3) any amendment, modification, or renewal of a contract entered into prior to the effective date of P.L. ,
c. (C. ) (pending before the Legislature as this bill) where the application would delay timely completion of a project or involve an increase in the total moneys to be paid by the State under that contract.

e. No later than two years after the effective date of this act, the State Treasurer, in consultation with the Commissioner of Environmental Protection, shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, containing a cost-benefit analysis of the low embodied carbon concrete procurement preference established pursuant to this section, in order to quantify the budgetary impact of the program relative to the preference’s carbon reduction impact. The report shall recommend whether the preference should be continued, modified, or repealed, and include any recommendations for legislative or regulatory action to improve the preference.

f. For the purposes of this section:

“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” means structural and non-structural masonry, and pre-cast and ready-mix concrete building products.

“Embodied carbon emissions” means carbon emissions generated as a result of a material’s production, including mining, refining, manufacturing, and shipping.

“Environmental product declaration” means a product-specific Type III environmental product declaration that conforms to ISO Standard 14025, assesses the numeric global warming potential of the product, and allows for environmental impact comparisons between concrete mixes fulfilling the same functions.

“Global warming potential” means a numeric value that measures the total contribution to global warming from the emission of greenhouse gases, or the elimination of greenhouse gas sinks, that results from the production or utilization of concrete.

“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 any combination of: (1) higher energy efficiency at the level of the concrete or cement plant; (2) low carbon fuel substitution at the level of the concrete or cement plant; (3) local production of the concrete, resulting in reduced concrete delivery miles and reduced
emissions from transportation; (4) the reduction of clinker content in the cement component of concrete, or the substitution of clinker content with lower carbon-intensive alternative materials such as ground, granulated blast furnace slag, fly ash, or recycled ground-glass pozzolan; (5) the capture and storage of point source carbon dioxide emissions during the cement or concrete production process; or (6) the utilization and storage of carbon in concrete materials.

“Portland cement” means hydraulic cement produced by pulverizing clinkers in combination with one or more of the forms of calcium sulfate.

2. a. (1) A taxpayer that is a producer of concrete, or a producer of a major component of concrete including cement or aggregate, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), to be calculated as provided in paragraph (2) of this subsection, to compensate the taxpayer 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 a production facility that the taxpayer owns or operates.

(2) The amount of the credit authorized pursuant to this section shall not exceed the lesser of: (a) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (b) $3,000. A taxpayer may claim the credit authorized pursuant to this section 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.

b. The order of priority of the application of the tax credit allowed pursuant to this section, and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, shall be as prescribed by the director. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

c. The director, in consultation with the Department of Environmental Protection, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as are necessary to implement the
provisions of this section. The director may require the
submission of any information the director deems necessary to
award a tax credit pursuant to this section.

d. As used in this section:
“Concrete” means structural and non-structural masonry, and
pre-cast and ready-mix concrete building products.
“Embodied carbon emissions” means carbon emissions generated
as a result of a material's production, including mining, refining,
manufacturing, and shipping.
“Environmental product declaration” means 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.
“Global warming potential” means a numeric value that
measures the total contribution to global warming from the
emission of greenhouse gases, or the elimination of greenhouse gas
sinks, that results from the production or utilization of concrete.

3. This act shall take effect immediately.

STATEMENT

This bill would establish a State purchasing preference for low
embodied carbon concrete and concrete that incorporates carbon
capture, utilization, and storage technologies, and provide a
corporation business tax credit to taxpayers for the costs of
conducting environmental production declaration analyses.

Specifically, the bill would require any State agency having
authority to contract for the purchase of goods and services, when
entering into a 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, to apply a low embodied carbon
discount rate to the price of bids for the purpose of bid assessment
and selection. The low embodied carbon discount rate, which
would be established by the State Treasurer in consultation with the
Commissioner of Environmental Protection, would be applied to bid
prices on the basis of the global warming potential values for the
concrete specified in the bids, and would not exceed five percent of
the total bid price. To qualify for the discount, bidders would be
required to submit global warming potential values for the concrete
specified in their bids in the form of certified environmental product
declarations.

Additionally, for bids that are certified to incorporate products
that incorporate carbon capture, utilization, and storage technology,
a State entity would be required to apply a supplemental discount
rate to the price of bids for the purpose of bid assessment and
selection. The carbon capture, utilization, and storage discount rate would be added to the low embodied carbon discount rate established in the bill, and would not exceed three percent of the total bid price. The State Treasurer would establish the specific price discount rates to be applied to bids based on the amount of carbon dioxide captured and stored by the product.

For State-funded construction projects that will be completed by a private contracting firm that has been contracted by the State, and for which concrete will be procured by the contractor for the project, the contractor would be required to comply with the selection standards and rules established in the bill when subcontracting products or services from concrete providers. The State Treasurer would establish policies and procedures for private contracting firms to comply with the requirements of the bill.

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 entity 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 shall receive the price discount rate established in the bill. The State purchasing preference would not apply to certain contracts as specified in the bill.

The bill would also provide a tax credit against the corporation business tax to compensate a taxpayer 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.

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.