ASSEMBLY COMMERCE, ECONOMIC DEVELOPMENT AND AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5394

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2026

The Assembly Commerce, Economic Development and Agriculture Committee reports favorably and with committee amendments Assembly Bill No. 5394.

As amended, this bill would require that any plastic construction materials used by a State-funded construction project carried out by the State, a county, a municipality, or a public utility contain at least 10 percent postconsumer recycled content if purchased within two years of the bill's effective date, and at least 15 percent for plastic construction materials purchased thereafter.

The bill would apply to construction materials that contain greater than 50 percent plastic, calculated by cost. The bill defines "construction material" as an article, material, or supply that is brought to the site of a construction project for incorporation into the building or work, which meets applicable standards related to performance and is of a satisfactory quality.

The bill would provide exemptions to the bill's postconsumer recycled content requirements if: (1) the use of plastic construction material that contains the necessary recycled content would increase the overall cost of the State-funded project by 20 percent, (2) construction materials, other than plastic materials that meet the postconsumer recycled content in the bill’s provisions, do not exist for the intended application, are not available in sufficient quantities, or are not available within 60 days of the start of the construction of the State-funded construction project; or (3) the licensed architect or engineer of record has certified in writing that the use of construction materials that meet the bill’s provisions would cause structural integrity issues and that the structurally integrity issues cannot be reasonably mitigated without the use of construction materials that do not meet the bill’s provisions.

As amended and reported by the committee, Assembly Bill No. 5394 is identical to Senate Bill No. 3802 (2R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) revise the definition of "construction material" to exclude road surface materials and hazard, caution, or traffic signs, signage, markings, or symbols; and

(2) include publicly owned utilities in the definition of "governmental entity";

(3) stipulate that the exemption to the bill's postconsumer recycled content requirements applies if the use of plastic construction material that contains the necessary recycled content would increase the overall cost of the State-funded project by 20 percent, rather than 25 percent;

(4) permit the use of construction materials that are not plastic that contains the necessary postconsumer recycled content if there are no comparable plastic construction materials that exist for the intended application or if the comparable plastic construction materials are not available in sufficient quantities;

(5) provide an exemption from the bill's provisions when the use of plastic construction materials with the requisite amounts of postconsumer recycled content would cause structural integrity issues in the construction project;

(6) provide that if a State-funded construction project cannot procure materials that meet the requirements of the bill within 60 days of the start of construction, the construction project would be exempt from the recycled content requirements in order to prevent significant delays; and

(7) make clarifying revisions.