

HB 320-FN – AS INTRODUCED

2013 SESSION

13-0207
08/10

HOUSE BILL ***320-FN***

AN ACT establishing a state bank.

SPONSORS: Rep. Christiansen, Hills 37; Rep. Itse, Rock 10; Rep. Weyler, Rock 13

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes the development bank of New Hampshire.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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1 V. Board members shall serve without compensation, except that members may be
2 reimbursed for travel expenses associated with their duties under this chapter.

3 389-B:3 Advisory Committee.

4 I. The board shall appoint the development bank of New Hampshire advisory committee to
5 actively enlist the help of private enterprise and encourage use of the bank. The advisory committee
6 shall consist of 7 members and shall include representatives of the state's financial, business,
7 agricultural, and labor sectors and at least 2 officers of state-chartered financial institutions that do
8 not maintain offices outside the state.

9 II. The board shall appoint a chair, vice-chair, and secretary for the advisory committee from
10 the members of the advisory committee.

11 III. Advisory committee members shall serve a term of office of 4 years, except as provided
12 by law for initial appointments. Initial appointments for the development bank of New Hampshire
13 advisory committee shall be for staggered terms. The first 2 members shall be appointed for one-
14 year terms, the second 2 members shall be appointed for 2-year terms, the third 2 members shall be
15 appointed for 3-year terms, and the remaining members shall be appointed for 4-year terms.

16 IV. The advisory committee shall:

17 (a) Meet regularly with the board to review and make recommendations concerning the
18 bank's operations, finances, and loan practices;

19 (b) Make recommendations to the board for improving management performance,
20 customer service, and internal methods, procedures, and operating policies of the bank;

21 (c) Make recommendations to the board relating to the establishment of additional
22 objectives for the operation of the bank;

23 (d) Make recommendations to the board concerning the appointment of officers of the
24 bank; and

25 (e) Participate on loan committees.

26 V. Advisory committee members serve without compensation except that members may be
27 reimbursed for travel expenses associated with their duties under this chapter.

28 389-B:4 Deposit of Funds.

29 I. The bank may accept deposits of public funds. Except as provided in RSA 389-B:5, the
30 bank may not accept deposits of private funds. All income earned by the bank on public funds shall
31 be credited to and shall become a part of the revenues and income of the bank.

32 II. The bank shall pay interest on public deposits at a rate comparable to rates paid by
33 private depositories of public funds and may offer other financial products to the state treasurer on a
34 competitive basis.

35 III. Funds may also be appropriated from the general fund to allow the bank to fulfill its
36 duties under this chapter.

37 389-B:5 Powers of the Bank.

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1 I. The bank may:

2 (a) Make, purchase, guarantee, modify, or hold loans:

3 (1) To state-chartered financial institutions;

4 (2) That are insured or guaranteed in whole or in part by the United States or its
5 agencies or instrumentalities;

6 (3) Obtained as security pledged for, or originated in the restructuring of, any other
7 loan properly originated or participated in by the bank; and

8 (4) To instrumentalities of this state.

9 (b) Purchase, guarantee, modify, or hold loans originated by financial institutions
10 authorized to do business in this state.

11 (c) Purchase participation interests in loans made or held by banks, bank holding
12 companies, state-chartered or federally chartered financial institutions, any other financial
13 institutions, or any other entity that provides financial services and that meets underwriting
14 standards that are generally accepted by state or federal financial regulatory agencies; and

15 (d) Make loans in the form of participation loans to qualified persons residing in or doing
16 business in this state when the originator of the loan is a private financial institution.

17 II. The bank shall not make loans to any private individual or legal entity.

18 III. The bank shall invest its funds in conformity with policies of the board and the
19 investment standards in RSA 6:8, RSA 387:6, RSA 387:6-a, and RSA 387:14.

20 IV. The bank may buy and sell federal bonds.

21 V. The bank may lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage
22 all real and personal property, title to which has been acquired in any manner.

23 VI. The bank may:

24 (a) Act as a custodian bank for financial institutions authorized to do business in this
25 state and accept deposits from the financial institutions in connection with this function;

26 (b) Issue bank stock loans to financial institutions authorized to do business in this
27 state; and

28 (c) For financial institutions that make the bank a reserve depository, perform the
29 functions and render the services of a clearinghouse, including all functions for providing domestic
30 and foreign exchange, and rediscount notes, on terms prescribed by the board.

31 VII. The bank may perform all acts and do all things necessary, convenient, advisable, or
32 desirable to carry out the powers expressly granted or necessarily implied in this chapter through or
33 by means of its president, officers, agents, or employees or by contracts with any person, firm, or
34 corporation.

35 389-B:6 Transfer to General Fund. As soon as possible after the end of each calendar year, the
36 board shall determine the amount of income, if any, earned by the bank in that prior calendar year
37 that is in excess of amounts necessary to pay for expenses of administering the activities of the bank

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1 less any reserves required pursuant to rules adopted in accordance with RSA 389-B:7, for
2 delinquencies and future business and payment of debts from any initial funding. The amount of the
3 excess shall be transferred to the general fund.

4 389-B:7 Rulemaking. The board shall adopt rules pursuant to RSA 541-A, relative to banking
5 policies and procedures including:

6 I. Ensuring the safety and soundness of the bank that, to the extent possible, reflect
7 applicable standards for safety and soundness set forth in part 34 of title 12 of the Code of Federal
8 Regulations.

9 II. Specifying the bank's powers and permissible investments and activities consistent with
10 RSA 389-B:5;

11 III. Specifying services that the bank may provide;

12 IV. Specifying limits for loans and other obligations the bank makes or undertakes;

13 V. Specifying reserve requirements; and

14 VI. Setting other requirements that the board considers necessary to administer the bank
15 under this chapter and to accomplish the purposes listed in RSA 389-B:1.

16 389-B:8 Examination and Report. The banking department shall examine the bank at least
17 once each calendar quarter to verify and ensure that the bank is complying with the rules adopted
18 under RSA 389-B:7. The banking department shall report the results of the examination to the
19 board and to the banking commissioner. The department's report shall be a public record subject to
20 disclosure.

21 389-B:9 Audit. The audit division of the legislative budget assistant shall audit the accounts
22 and financial affairs of the bank at least once every 2 years.

23 389-B:10 Annual Report; Performance Measures. Beginning July 1, 2016 and annually
24 thereafter, the bank shall report to the governor and the legislature on the financial condition and
25 performance of the bank and provide an analysis of the bank's impact on the state consistent with
26 the bank's purposes set forth in RSA 389-B:1, particularly the bank's impact on job creation and
27 economic development.

28 389-B:11 Exempt from Liability. Whenever any public funds are deposited in the bank, the
29 public official who deposited the funds and the sureties on any bond of the public official shall be
30 exempt from liability for loss of any of the funds while the funds are deposited in the bank.

31 389-B:12 Use of Name; Execution of Instruments.

32 I. All business of the bank shall be conducted under the name of the development bank of
33 New Hampshire. Title to property pertaining to the operation of the bank shall be obtained and
34 conveyed in the name of the development bank of New Hampshire.

35 II. Instruments shall be executed in the name of the state. Within the scope of authority
36 granted by the board, the president of the bank may execute instruments on behalf of the bank,

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1 including any instrument granting, conveying, or otherwise affecting any interest in or lien upon real
2 or personal property.

3 III. Officers or employees of and legal counsel to the bank may execute instruments on
4 behalf of the bank when authorized by the board.

5 2 State Treasurer and Bank Commissioner to Make Recommendations. No later than January
6 15, 2014, the state treasurer and the bank commissioner, in consultation with the attorney general,
7 shall submit a report to the house and senate finance committees with recommendations for
8 implementing the development bank of New Hampshire. The report shall include:

9 (a) A draft of any legislation needed to amend the New Hampshire constitution to
10 authorize the state to establish the bank;

11 (b) A recommendation on the amount of money needed to adequately capitalize the bank;

12 (c) A draft of any legislation needed to transfer funds to the bank;

13 (d) A description and draft of statutory changes needed to fully utilize the resources and
14 powers of the bank and to eliminate any duplication of efforts or conflict with the authority or
15 responsibilities of the New Hampshire municipal bond bank and any other state agencies;

16 (e) Recommendations for guaranteeing funds deposited in the bank;

17 (f) Recommendations pertaining to the liability of the state and the bank in civil actions;

18 and

19 (g) Recommendations regarding the confidentiality of certain records held by the bank.

20 3 Effective Date. This act shall take effect July 1, 2013.

HB 320 FISCAL NOTE

AN ACT establishing a state bank.

FISCAL IMPACT:

The Treasury Department, Banking Department, Department of Justice, and Office of Legislative Budget Assistant state this bill, **as introduced**, may increase state revenue and expenditures by an indeterminable amount in FY 2014 and each year thereafter. There is no fiscal impact on county or local revenue and expenditures.

METHODOLOGY:

The Treasury Department states this bill establishes a development bank. The Department assumes future financing for capitalization of the development bank will occur through a state bond issue with debt service being paid out of the bank's profits. The Department has no information to determine when this bond issue would happen or the amount of financing. Under the requirements of the Basel III accord, a global bank capitalization standard which will be phased in beginning January 2013, banks will be required to effectively maintain a 7 percent key capital ratio. If this amount were to be based on the average balances maintained by the Department, approximately \$55 million would be needed to meet the standard. However, given the variability of cash inflow and outflows associated with the \$5.1 billion in receipts and disbursement handled by the Department this capitalization requirement could easily be higher. The Department states none of the capitalization estimates take into account any other assets the state bank may need to account for on its balance sheet at the time of capitalization. The Department assumes this bill will have no impact on state general fund revenue or expenditures because it assumes administration and investment management costs will be paid from bank proceeds.

The Banking Department estimates it will need to conduct 4 quarterly exams of 15 days each for a total of 60 examiner days. The Department states for FY 2013, the examiner rate is \$705 per day. Assuming the rate increases by 4 percent each year, the Department estimates the following examiner revenue beginning in FY 2015:

<u>Fiscal Year</u>	<u># of Examiner Days</u>	<u>Daily</u>	<u>Total</u>
FY 2015	60	\$763	\$45,780
FY 2016	60	\$793	\$47,580

FY 2017

60

\$825

\$49,500

The Department is not able to estimate the fiscal impact of FY 2014 because the development bank will be in the process of being established; therefore the Department is not able to determine whether any examinations by the Department will be performed. The Department is self-funded with its costs and expenses, including personnel, paid by fees, fines, and assessments if fees and fines do not cover actual expenditures.

The Department of Justice (DOJ) assumes the state bank will require the services of one full-time assistant attorney general to assist the development bank with its start-up operations, provide legal advice, and assist with transactions and other operational activities. The DOJ also assumes a paralegal will be needed. The Department estimates the costs associated with these two positions as follows:

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Assistant Attorney General	\$66,950	\$68,959	\$71,027	\$73,158
Paralegal (LG 19, step 1)	\$34,866	\$36,290	\$37,850	\$39,390
Benefits	\$52,481	\$56,020	\$59,812	\$63,880
Computers	\$3,000	\$0	\$0	\$0
Office Furniture	\$3,000	\$0	\$0	\$0
License for Prolaw and other software	\$2,400	\$0	\$0	\$0
Current expenses	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$1,500</u>
Total	\$164,197	\$162,769	\$170,189	\$177,928

The Office of Legislative Budget Assistant states the fiscal impact of this bill on the audit division is indeterminable. The Office states there is insufficient detail about the development bank, such as the bank's deposits, loans, and number of employees to determine the impact on state expenditures. Additionally, it is unclear if the development bank is intended to be a department of the state or a separate legal entity and if it is intended to be self-supporting.

This bill does not contain authorization or appropriations for positions.