

HB 646-FN – AS INTRODUCED

2013 SESSION

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HOUSE BILL **646-FN**

AN ACT relative to New Hampshire correctional industries.

SPONSORS: Rep. Groen, Straf 10; Rep. Pitre, Straf 2; Rep. Ulery, Hills 37

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill establishes GraniteCor within the department of corrections. The bill exempts GraniteCor from state competitive bidding and purchasing requirements; establishes a GraniteCor capital equipment fund; prioritizes state purchases from governmental entities; and transfers a portion of the existing motor vehicle number plate manufacturing fee assessed by the department of safety to GraniteCor.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to New Hampshire correctional industries.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; New Hampshire Correctional Industries; GraniteCor. Amend RSA 622 by
2 inserting after section 32 the following new subdivision:

3 New Hampshire Correctional Industries-GraniteCor

4 622:32-a GraniteCor Established. In order to provide inmates with on-the-job-training (OJT) in
5 jobs that produce products and services that serve customers, there is hereby established a division
6 within the department of corrections called New Hampshire correctional industries, which shall be
7 known by the name “GraniteCor.” GraniteCor shall be administered by, and subject to the authority
8 of, the commissioner of the department of corrections.

9 622:32-b GraniteCor Operations.

10 I. The state shall provide GraniteCor with a market for its products and services.

11 II. The primary goal of GraniteCor shall be to engage prison inmates in productive, skill
12 building work that reduces idleness and recidivism, and increases prison and public safety.
13 GraniteCor shall have a base market sufficient for GraniteCor to be self-funding while maintaining
14 sufficient OJT jobs to maintain compliance with court decrees. GraniteCor shall strive to attain
15 revenue which is not less than \$3,000,000 and not more than \$9,000,000 in purchases of products
16 and services by governmental entities.

17 III. The following provisions shall apply to transactions between a governmental entity and
18 GraniteCor:

19 (a) GraniteCor may supply a governmental entity with products and services at market
20 prices based on similar quality products and services. When purchasing from GraniteCor,
21 governmental entities shall not be required to solicit bids or price quotes from any other source of
22 said products or services.

23 (b) Political subdivisions of the state and nonprofit organizations may purchase from
24 GraniteCor unless otherwise restricted by their own rules, laws, or ordinances.

25 (c) GraniteCor prices shall be determined by the open market except where otherwise
26 required by law.

27 (d) GraniteCor may supply any product or service at market prices to the department of
28 corrections without limitation.

29 (e) Products under \$500 in value, and products over \$500 in value for which GraniteCor
30 has a contract approved by governor and council, which are made, in whole or in part, by private
31 businesses which GraniteCor repackages, partially manufactures, distributes, or otherwise

1 physically handles, shall be considered GraniteCor products.

2 (f)(1) GraniteCor and the department of administrative services, division of plant and
3 property management, bureau of graphic services shall be the primary vendors for printing jobs for
4 the state. Other governmental entities may internally produce printed products limited to their own
5 use at the discretion of the commissioner of the department of administrative services.

6 (2) GraniteCor shall be the primary printer for graphic-related products for
7 governmental entities, except for products produced internally by such agency. GraniteCor shall
8 have the right of first refusal for printing jobs which may be outsourced.

9 (g) GraniteCor’s sign shop shall be the primary sign shop for governmental entities and
10 shall have first option to produce signs 48 inches or less in width.

11 (h) Governmental entities shall purchase stickers, decals, and tags from GraniteCor at
12 market prices whenever GraniteCor has the capability for making such items.

13 (i) Governmental entities shall purchase motor vehicle number plates from GraniteCor
14 and all governmental entities shall design plates capable of being manufactured by GraniteCor.
15 GraniteCor shall assess and collect a \$1.50 per plate fee for the manufacture such plates. The
16 governmental entity shall provide all necessary materials. Moneys collected by GraniteCor under
17 this subparagraph shall be deposited into the GraniteCor capital equipment fund established in
18 RSA 622:32-d.

19 (j) GraniteCor shall be allowed to sell directly and indirectly nationally and
20 internationally to businesses, individuals, nonprofit entities, and governments when in accordance
21 with federal laws.

22 (k) GraniteCor may participate in the Prison Industry Enhancement Certification
23 Program (PIECP) administered by United States Department of Justice and may implement some or
24 all of the requirements of the program, and any amendments to the program, as deemed necessary.
25 GraniteCor shall be reimbursed for costs involved in managing, expanding, and administering
26 PIECP from the accounts of inmates who participate in PIECP.

27 (l) GraniteCor may purchase and maintain a privately hosted e-commerce web site
28 approved department of information technology (DoIT) and accept electronic payments. GraniteCor
29 may purchase and maintain a separate, privately hosted web site approved by DoIT for the purpose
30 of allowing customers to upload files. All web sites shall meet or exceed state security requirements
31 as determined by DoIT.

32 622:32-c Exemptions from State Contract and Purchasing Requirements. GraniteCor’s
33 purchases and contracting shall be exempt from the competitive bidding requirements set forth in
34 RSA 21-I:11.

35 622:32-d GraniteCor Capital Equipment Fund Established.

36 I. There is established in the office of the state treasurer a fund to be known as the
37 GraniteCor capital equipment fund, which shall be administered by the commissioner of the

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1 department of corrections, and which shall be kept distinct and separate from all other funds. All
2 moneys in the fund shall be nonlapsing and continually appropriated to GraniteCor. The
3 commissioner of the department of corrections shall deposit in the fund all moneys received by
4 GraniteCor from the sales of GraniteCor goods and services, and such other funds received under
5 state or federal law, and any gifts, grants, or donations to GraniteCor from any source. The fund
6 shall be used to purchase necessary capital equipment for GraniteCor and shall not be used for
7 GraniteCor general operating expenses. The commissioner shall credit any interest or income
8 earned on moneys on deposit to the fund.

9 II. No later than June 30 of each fiscal year in which GraniteCor's annual revenues exceed
10 its annual expenses, the commissioner of the department of administrative services shall deposit in
11 the GraniteCor capital equipment fund an amount equal to the difference between GraniteCor's
12 annual revenues and annual expenses. For the purpose of calculations under this paragraph,
13 depreciation shall not be considered an operating expense.

14 III. GraniteCor's annual expenses may exceed its annual revenues until such time as the
15 commissioner of the department of administrative services certifies to the commissioner of the
16 department of corrections that a minimum of \$3,000,000 in purchases of products and services by
17 governmental entities is from GraniteCor.

18 IV. GraniteCor may finance or lease capital equipment costing in excess of \$5,000 for up to
19 84 months.

20 2 Addition to Fund. Amend RSA 228:25 to read as follows:

21 228:25 Addition to Fund.

22 I. There is hereby established an inventory fund in the department of safety consisting of
23 the initial appropriation of \$1,000,000 which sum is hereby authorized as a revolving fund comprised
24 of funds in the highway fund that are not otherwise appropriated and into which shall be deposited
25 additional revenues derived from the number plate manufacturing fee established in this paragraph.
26 The fund shall be nonlapsing and continually appropriated to the department. The ~~[prison]~~
27 **department of safety** shall purchase such raw materials as may be required ~~[and agreed to by the~~
28 ~~commissioner of safety]~~ **by GraniteCor** in order for the commissioner of safety to issue fully
29 reflectorized motor vehicle number plates. This purchase shall be a charge against the inventory
30 fund and ~~[the prison]~~ **GraniteCor** shall be responsible for the control and accountability of the raw
31 materials so charged. Said number plates shall be manufactured at the state prison. ~~[The prison]~~
32 **GraniteCor** shall be furnished out of said inventory account the raw materials necessary to
33 manufacture said plates and upon receipt of the finished plates by the department of safety shall be
34 reimbursed for their direct and indirect costs. The commissioner of safety shall, biennially, request
35 the commissioner of administrative services to review and approve said cost rates. Notwithstanding
36 any other provision of law, the commissioner of safety shall charge, in addition to the regular motor
37 vehicle registration fee, a number plate manufacturing fee of \$4.00 per plate at the time of issuing

1 said reflectorized motor vehicle number plates or replacement reflectorized number plates, *\$1.50 of*
2 *which shall be credited by the commissioner of safety to the GraniteCor capital equipment*
3 *fund established in RSA 622:32-d*. Said additional charge shall not give the registrant any title or
4 other property interest in said plates. The commissioner of safety or assistant commissioner may
5 request from time to time delivery of the number plates from ~~[the prison]~~ **GraniteCor** and shall
6 reimburse the inventory fund by a transfer from revenue. At least 6 months prior to subsequent
7 general issue, a transfer from revenue shall be made for all remaining finished plates in inventory.
8 The commissioner of safety shall report to the governor, the president of the senate, and the speaker
9 of the house of representatives, no later than 90 days after the close of the second fiscal year of each
10 biennium, the year ending balance in the inventory fund and the department's recommendation as to
11 when the next general issue of number plates should commence, the estimated cost of such a general
12 issue, and the estimated annual cost to support routine plate issue and replacement without a new
13 general issue.

14 II. [Repealed.]

15 III. In accordance with the provisions of paragraph I, replacement plates may be purchased
16 from the inventory fund.

17 IV. If ~~[the state prison shop]~~ **GraniteCor** is unable to manufacture or deliver reflectorized
18 motor vehicle plates in a timely manner because of an emergency interruption resulting from a riot
19 or other unforeseen cause, as determined by the commissioner of corrections or the commissioner of
20 safety, the commissioners shall submit a written report to the governor and council and shall request
21 that an outside vendor be retained to manufacture said plates. If at any time the commissioner of
22 safety or the commissioner of corrections determines that ~~[the prison]~~ **GraniteCor** cannot produce
23 number plates at a competitive price or meet reasonable delivery schedules, the commissioner of
24 safety shall report to the fiscal committee of the general court and the governor and council, and
25 shall request that an outside vendor be retained to manufacture the plates. Upon approval of the
26 governor and council, the commissioner of safety shall request the director of plant and property
27 management to select an outside vendor~~[in accordance with RSA 8:19]~~.

28 V. The commissioner of safety, with approval of the governor, may charge the necessary
29 expenses for the manufacture, storage, handling, issuance, and distribution of reflectorized motor
30 vehicle number plates against the inventory fund provided under this section.

31 3 Sales of Prison Products. Amend RSA 622:26 to read as follows:

32 622:26 Sales of Prison Products.

33 ~~[I. The commissioner of corrections may contract for the sale or lease of goods and products~~
34 ~~which are produced at the state prisons on the open market at competitive prices, when, in his~~
35 ~~opinion, such sale or lease is in the best interests of the inmates and of the prisons and does not~~
36 ~~conflict unduly with the availability of prison manufactured goods to state and public institutions as~~
37 ~~provided for in RSA 622:5, VI and RSA 622:28, and results in the best utilization of the prison~~

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1 ~~production capacity.~~

2 ~~H.]~~ The commissioner of corrections shall not, nor shall any other authority, make any
3 contract by which the labor or time of any prisoner in the state prisons or in any reformatory,
4 penitentiary, or jail in the state shall be farmed out, given, or sold to any person.

5 4 New Subparagraph; Application of Receipts; GraniteCor Capital Equipment Fund. Amend
6 RSA 6:12, I(b) by inserting after subparagraph 310 the following new subparagraph:

7 (311) Moneys deposited into the GraniteCor capital equipment fund established in
8 RSA 622:32-d.

9 5 Repeal. The following are repealed:

10 I. RSA 622:5, V, relative to the power of the commissioner of the department of corrections
11 to provide for the sale of articles manufactured in the prisons.

12 II. RSA 622:28, relative to provision of products for state agencies.

13 III. RSA 622:28-a, relative to the prison industries inventory account.

14 IV. RSA 6:12, I(b)(206), relative to the industries inventory account.

15 6 Effective Date. This act shall take effect July 1, 2014.

HB 646 FISCAL NOTE

AN ACT relative to New Hampshire correctional industries.

FISCAL IMPACT:

The Departments of Corrections, Administrative Services, Safety, and Transportation state this bill, **as introduced**, will increase state restricted revenues and expenditures, and state general fund expenditures by an indeterminable amount in FY 2015 and each fiscal year thereafter. There will be no fiscal impact on county and local revenues or expenditures.

METHODOLOGY:

The Department of Corrections states this bill establishes GraniteCor within the Department of Corrections. The proposed legislation exempts GraniteCor from state competitive bidding and purchasing requirements and establishes a dedicated capital equipment fund while simultaneously prioritizing GraniteCor for state purchases and mandating goods and services provided to the state be provided at market prices based on similar quality products or services. The proposed legislation also transfers a portion of the existing motor vehicle number plate manufacturing fee assessed by the Department of Safety to GraniteCor. The Department notes the proposed legislation specifies GraniteCor shall strive to attain revenues of between \$3,000,000 and \$9,000,000 derived from the sale of goods and services to state agencies. GraniteCor would also be authorized to sell directly or indirectly to businesses, individuals, non-profit entities, and governments. Additionally, it is specified GraniteCor's annual expenditures may exceed its annual revenues until such time as the Commissioner of the Department of Administrative Services certifies purchases of goods or services from GraniteCor by governmental entities meets or exceeds \$3,000,000. Accordingly, the Department states the proposed legislation will increase state restricted revenue by at least \$3,000,000 in FY 2015 and each fiscal year thereafter.

Revenues derived from the sales of goods or services by GraniteCor are directed to the newly established GraniteCor Capital Equipment Fund. Additionally, in any fiscal year in which GraniteCor's revenues exceed its expenditures, the proposed legislation requires the Department of Administrative Services to deposit an amount equal to the annual operating surplus of GraniteCor into the newly established GraniteCor capital equipment fund. The proposed legislation designates the fund shall be used to purchase capital equipment only and shall not be used for general operating expenses.

The Department states this bill exempts GraniteCor from state competitive bidding and purchasing requirements and authorizes the financing or leasing of capital equipment in excess of \$5,000 for up to 84 months. As noted in the previous paragraph, the Department cannot apply revenues derived from the sale of goods or services to operating costs as they are specifically designated for allocation to the capital equipment fund. Accordingly, the Department notes operating costs of the GraniteCor will be borne by the general fund. Although the Department is unable to estimate the associated expenditures associated with GraniteCor's operating expenses or capital needs at this time, they note state general fund expenditures and restricted expenditures will increase by an indeterminable amount proportionally to GraniteCor's increases in production levels and expansion of goods or services offered for sale in FY 2015 and each fiscal year thereafter.

The Department of Administrative Services (DAS) states this bill will allow state agencies to bypass the Bureau of Graphic Services and central management of state printing services as required in RSA 21-I:12, IV by establishing GraniteCor as the primary printer for graphic related products. The DAS assumes they will still be required to provide legislative printing, certain on demand print products, certain outsourced products, photocopier and multi-function device contracts, and specialized work that cannot be performed by GraniteCor. Although this would allow for significant reductions in the Bureau of Graphic Services workforce, the DAS states the ensuing reduction in expenditures would not be sufficient to offset the reduction in agency income associated with the transition from the provision of services by DAS to the provision of services by GraniteCor for state printing jobs. The DAS estimates the cost associated with maintaining operations sufficient to meet the remaining responsibilities of the Bureau of Graphic Services, allowing for reductions in staffing and workload, would be \$1,577,595 in FY 2015 and each fiscal year thereafter. Under current practice, \$282,435 of these costs associated with bureau administration would be borne by the general fund. The remaining \$1,295,160 would be funded through agency income derived from the revenues associated with the provision of services. Under the proposed legislation, the DAS estimates the agency income received by the DAS would be reduced to \$416,839 thereby increasing general fund expenditures by the ensuing operational deficit of \$878,321 in FY 2015 and each year thereafter. The DAS notes the remaining agency income estimated to result from state printing services in FY 2015 and each year thereafter would be redirected to GraniteCor and therefore have no fiscal impact on overall restricted revenue.

The DAS states the proposed legislation also allows GraniteCor to operate at a deficit until such time as a minimum of \$3,000,000 in purchases of products or services made through GraniteCor by governmental entities. The DAS states Correctional Industries has accumulated

a deficit of \$2,603,681 during a 63 month period ranging from July 1, 2006 through September 28, 2011 (an average of \$41,328 per month, (\$2,603,681 / 63)). For the purposes of this fiscal note, the DAS assumes this deficit will increase by 50% to \$61,992 per month (\$743,904 per year) beginning in FY 2015. Accordingly, the DAS estimates the proposed legislation will increase state general fund expenditures by \$1,622,225 in FY 2015 and each fiscal year thereafter.

The Department of Safety states the proposed legislation will set the fee per plate paid to the Department of Corrections at \$1.50 beginning in FY 2015. The Department states in FY 2012 the Department paid an average of \$.774 per plate to the Department of Corrections on a total of 457,566 plates. Assuming the number of plates produced per year remains constant, the Department states an increase in costs of \$.726 per plate would result in an increase of \$332,193 (\$.726 x 457,566) of highway fund expenditures in FY 2015 and each fiscal year thereafter.

The proposed legislation establishes GraniteCor as the primary sign shop for governmental entities and provides GraniteCor with the right of first refusal for signs 48 inches or less in width. The Department of Transportation notes the majority of their sign manufacture was transferred to the Department of Corrections in the late 1980's and states the proposed legislation will therefore affect a relatively small number of signs produced by the Department. The proposed legislation could potentially impact the cost of named or memorial highway signs, tourist oriented directional signs, and incident and emergency signing. The costs associated with named or memorial highway signs and tourist oriented directional signs are ultimately borne by the sponsors of the signs. Accordingly, any difference in the cost of production associated with these signs would be passed onto the sponsors and have no fiscal impact on the Department. Incident and emergency signing is used by the Department's maintenance personnel during emergencies and other transportation incidents. Due to the sporadic nature of the needs associated with these signs, the Department is unable to estimate the fiscal impact the proposed legislation would have on the costs associated with these signs as the transfer of production to GraniteCor could affect the Department's response to such events.