

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2013-01-15** | Period of Report: **2013-01-09**
SEC Accession No. [0001193125-13-012843](#)

([HTML Version](#) on [secdatabase.com](#))

FILER

GREENBRIER COMPANIES INC

CIK:[923120](#) | IRS No.: [930816972](#) | State of Incorporation: **OR** | Fiscal Year End: **0831**
Type: **8-K** | Act: **34** | File No.: [001-13146](#) | Film No.: [13529927](#)
SIC: **3743** Railroad equipment

Mailing Address

*ONE CENTERPOINTE DR
STE 200
LAKE OSWEGO OR 97035*

Business Address

*ONE CENTERPOINTE DR
STE 200
LAKE OSWEGO OR 97035
5036847000*

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

Form 8-K

Current Report

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported) January 9, 2013

THE GREENBRIER COMPANIES, INC.

(Exact name of registrant as specified in its charter)

Commission File No. 1-13146

Oregon
(State of Incorporation)

93-0816972
(I.R.S. Employer Identification No.)

One Centerpointe Drive, Suite 200, Lake Oswego, OR 97035
(Address of principal executive offices) (Zip Code)

(503) 684-7000
(Registrant's telephone number, including area code)

Former name or former address, if changed since last report: N/A

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-
-

Item 5.02 Departure of Directors of Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

As noted in Item 5.07 below, at the Annual Meeting of Shareholders of The Greenbrier Companies, Inc. (the “Company”) held on January 9, 2013, the shareholders approved amendments to the Company’s 2010 Amended and Restated Stock Incentive Plan (the “Amended and Restated Plan”) to increase the total number of shares reserved for issuance under the Plan since its inception by 1,500,000 shares, from 2,825,000 shares to 4,325,000 shares. The amendment also increased the dollar value of the automatic restricted stock grants made to non-employee directors immediately following each Annual Meeting of Shareholders, from \$60,000 to \$80,000. The Board of Directors previously approved a corresponding decrease of the same dollar amount in the cash component of director compensation from \$75,000 to \$55,000, to achieve a weighting of total director compensation of approximately 60% equity and 40% cash, in order to enhance the alignment of interests between directors and shareholders.

A summary of the material terms of the Amended and Restated Plan, as amended, is set forth on pages 45 to 50 of the Company’s Definitive Proxy Statement on Schedule 14A, filed with the Securities and Exchange Commission on November 16, 2012, and is incorporated herein by reference. That summary and the foregoing description of the Amended and Restated Plan are qualified in their entirety by reference to the text of the Amended and Restated Plan, which was filed as Appendix B to the Company’s Proxy Statement filed on November 24, 2010, and the text of Amendment No. 1 to the Amended and Restated Plan, which was filed as Appendix B to the Company’s Proxy Statement filed on November 16, 2012, both of which are incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

(a) On January 9, 2013 the Board of Directors approved amendments to the Company’s Bylaws in order to incorporate a technical amendment to the Company’s voting standard applicable to matters other than the election of directors and to remove the provision regarding emeritus and advisory directors.

A copy of the Amendment to the Bylaws of The Greenbrier Companies, Inc. is attached as Exhibit 3.1 and incorporated by reference herein.

Item 5.07 Submission of Matters to a Vote of Security Holders

At the Annual Meeting of Shareholders of the Company held on January 9, 2013, four proposals were voted upon by the Company’s shareholders. A brief discussion of each proposal voted upon at the Annual Meeting and the number of votes cast for, against, withheld, abstentions and broker non-votes to each proposal are set forth below.

A vote was taken at the Annual Meeting for the election of three directors of the Company to hold office until the Annual Meeting of Shareholders to be held in 2016, or until their successors are elected and qualified. The Company's Bylaws were amended on October 30, 2012, to decrease the number of directors from eleven to ten, effective as of January 9, 2013. The aggregate numbers of shares of Common Stock voted in person or by proxy for each nominee were as follows:

<u>Nominee</u>	<u>Votes for Election</u>	<u>Votes Withheld</u>	<u>Votes Abstained</u>	<u>Broker Non-Votes</u>
Duane C. McDougall	16,607,439	4,202,913	–	4,217,410
A. Daniel O' Neal, Jr.	14,040,579	6,769,773	–	4,217,410
Donald A. Washburn	15,188,446	5,621,906	–	4,217,410

A vote was taken at the Annual Meeting to approve a non-binding advisory resolution regarding the compensation of the Company's named executive officers. The aggregate number of shares of Common Stock in person or by proxy which voted for, voted against, abstained and broker non-votes from the vote were as follows:

<u>Votes for Approval</u>	<u>Votes against Approval</u>	<u>Votes Abstained</u>	<u>Broker Non-Votes</u>
16,245,891	1,705,442	2,859,019	4,217,410

A vote was taken at the Annual Meeting on a proposal to approve an amendment to the Company's 2010 Amended and Restated Stock Incentive Plan to increase the number of shares available under the plan and to increase the annual director stock compensation under the plan. The aggregate number of shares of Common Stock in person or by proxy which voted for, voted against, abstained and broker non-votes from the vote were as follows:

<u>Votes for Approval</u>	<u>Votes against Approval</u>	<u>Votes Abstained</u>	<u>Broker Non-Votes</u>
12,481,909	5,703,586	2,624,857	4,217,410

A vote was taken at the Annual Meeting on the proposal to ratify the appointment of KPMG LLP as the Company's independent auditors for the year ending August 31, 2013. The aggregate number of shares of Common Stock in person or by proxy which voted for, voted against, abstained and broker non-votes from the vote were as follows:

<u>Votes for Approval</u>	<u>Votes against Approval</u>	<u>Votes Abstained</u>	<u>Broker Non-Votes</u>
22,280,266	189,024	2,558,472	–

Item 8.01 Other Events.

On January 9, 2013, the Board of Directors adopted and approved amendments to the Compensation Committee Charter, based on the recommendation of the Compensation Committee.

The amended Compensation Committee Charter is attached hereto as Exhibit 99.1 and will be posted in the Investor Relations section of the Company's website, www.gbrx.com, under Corporate Governance as soon as practicable.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

3.1 Amendment to the Bylaws of The Greenbrier Companies, Inc. dated January 9, 2013.

99.1 Compensation Committee Charter

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

THE GREENBRIER COMPANIES, INC.

Date: January 15, 2013

By: /s/ Mark J. Rittenbaum

Mark J. Rittenbaum

Executive Vice President and Chief Financial Officer

(Principal Financial Officer)



Amendment to the Amended and Restated Bylaws

RESOLVED, that the first sentence of Article II, Section 6 of the Bylaws of the Company, as heretofore amended, be, and it hereby is, amended in its entirety to read as follows:

“Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, if a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, and all such acts shall be valid and binding upon the corporation.”

RESOLVED FURTHER, that Article III, Section 15 of the Bylaws of the Company, “Emeritus or Advisory Directors,” be and it hereby is, removed in its entirety.

Adopted by the Board of Directors on January 9, 2013.

/s/ Sherrill A. Corbett

Sherrill A. Corbett, Secretary



COMPENSATION COMMITTEE CHARTER

The Board of Directors of The Greenbrier Companies, Inc. (the “Company”) shall annually appoint from its members a Compensation Committee. This Charter of the Compensation Committee supplements the provisions of Article III, Section 11(d) of the Company’s Amended and Restated Bylaws and further defines the role, authority and responsibility of the Compensation Committee.

Number of Members and Appointment

The Compensation Committee shall be composed of at least two members of the Board of Directors. Members of the Committee shall be appointed annually by the Board of Directors. Vacancies shall be filled by the Board of Directors.

Independence of Members

Members of the Compensation Committee shall be free from any relationship to the Company or its subsidiaries that, in the judgment of the Board of Directors, may interfere with the exercise of their independence from management of the Company. Other than in their capacity as members of the Board of Directors, members of the Compensation Committee may not be affiliates, officers or employees of the Company or any of its subsidiaries and may not accept from the Company or any of its subsidiaries any consulting, advisory or other compensatory fees. Appointments to the Compensation Committee shall be consistent with standards for determining independence promulgated by the Securities and Exchange Commission (the “SEC”) and the New York Stock Exchange (“NYSE”), or such other national securities exchange as shall be the principal market for trading of the Company’s securities.

Purposes and Responsibilities

The Committee’s primary purpose is to recommend to the Board of Directors policies and processes for the regular and orderly review of the performance and compensation of the Company’s senior executive management personnel, including the President and Chief Executive Officer, and to regularly review, administer, and when necessary recommend changes to equity-based or performance-based compensation plans adopted by the Company.

Without limiting the generality of the foregoing, the Compensation Committee shall also have direct responsibility to:

Review and approve corporate goals and objectives relevant to compensation of the Company’s Chief Executive Officer, evaluate the Chief Executive Officer’s performance in light of those goals and objectives, and determine and approve the compensation level of the Chief Executive Officer based on this evaluation.

Establish compensation policy for executive officers and directors of the Company.

Establish policy regarding employee and director hedging of Company stock.

Establish policy regarding incentive-based compensation that is awarded based on financial information that is required to be reported under the securities laws, including such “clawback” provisions as may be required under SEC rules and/or NYSE or other applicable listing standards.

Approve compensation of executive officers other than the Chief Executive Officer.

Make recommendations to the Board of Directors with respect to incentive compensation plans and equity-based plans that are subject to Board approval.

Monitor compliance with the Company’s Executive Officer and Director Stock Ownership Guidelines; review and assess the adequacy of such guidelines as necessary.

Review and discuss with management the Company’s Compensation and Discussion Analysis to be included in the Company’s proxy statement.

Annually prepare and submit, for inclusion in management’s proxy statement to shareholders in connection with the annual meeting of shareholders, a report in conformity with Item 407(e)(5) of Regulation S-K promulgated by the SEC.

Annually review the Company’s compensation policies and practices as they relate to risk management and determine whether any such risks are reasonably likely to have a material adverse effect on the Company.

Administer all equity-based compensation plans adopted and approved by the Company from time to time.

Review and assess the adequacy of this Charter and the performance of the Compensation Committee on an annual basis.

Review and make recommendations to the Board of Directors regarding:

the compensation policy for non-officer employees of and consultants to the Company.

forms of compensation (including all “plan” compensation, as such term is defined in Item 402(a)(6) of Regulation S-K, and all non-plan compensation) to be provided to the executive officers of the Company.

general compensation goals and guidelines for the Company’s employees and the criteria by which bonuses to the Company’s employees are determined.

other plans that are proposed for adoption or adopted by the Company for the provision of compensation to employees, directors of, and consultants to the Company.

Retain and terminate such consultants, counsel, experts and other personnel as the Committee may deem reasonably necessary to enable it to fully perform its duties and fulfill its responsibilities, and determine the compensation and other terms of engagement for such consultants and experts. The Company will provide for appropriate funding, as determined by the Committee, for payment of compensation to any consultants, counsel, experts or other advisors employed by the Committee. The Compensation Committee may obtain independently published compensation survey data in furtherance of the duties set forth herein. The Compensation Committee may select a compensation consultant, counsel or other advisor only after taking into account independence factors identified by the SEC which shall include, without limitation

the provision of other services to the Company by the service provider;

the relationship of the fees paid by the Company to the total revenue of the service provider and to the total revenue of the local or regional office of the service provider;

the policies and procedures of the service provider that are designed to prevent conflicts of interest;

any business or personal relationship between the service provider or the individual compensation advisors employed by the service provider with an executive officer of the Company;

any business or personal relationship between the individual compensation advisors employed by the service provider and any member of the Compensation Committee; and

whether the service provider or the individual compensation advisors employed by the service provider own any stock of the Company.

Undertake such other specific duties as the Board of Directors may from time to time prescribe.

Meetings, Quorum, Informal Actions, Minutes

The Compensation Committee shall meet on a regular basis. Special meetings may be called by the Chair of the Compensation Committee. A majority of the members of the Compensation Committee shall constitute a quorum. Concurrence of a majority of the quorum (or, in case a quorum at the time consists of two members of the Committee, both members present) shall be required to take formal action of the Compensation Committee. Written minutes shall be kept for all formal meetings of the Committee.

As permitted by Sections 60.337 and 60.341 of the Oregon Business Corporation Act, the Compensation Committee may act by unanimous written consent, and may conduct meetings via conference telephone or similar communication equipment.

Members of the Compensation Committee may meet informally with officers or employees of the Company and its subsidiaries and may conduct informal inquiries and studies without the necessity of formal meetings. The Compensation Committee may delegate to its chair or to one or more of its members the responsibility for performing routine functions.

Reporting

The Compensation Committee shall report regularly to the Board of Directors and shall annually prepare and submit, for inclusion in management' s proxy statement to shareholders in connection with the annual meeting of shareholders, a report in conformity with Item 407(e)(5) of Regulation S-K.

Adopted by the Board of Directors July 13, 2004.

Amended June 28, 2006.

Amended January 8, 2010

Amended January 7, 2011

Amended January 6, 2012

Amended January 9, 2013