
HOUSE BILL No. 1856

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3-1; IC 2-8; IC 4-2-1-1; IC 4-3-3-1.1; IC 33-13-12.

Synopsis: Public officer salaries. Provides that the annual compensation for legislators is 20% of the governor's salary, beginning January 1, 2002. Provides that the legislator out-of-session subsistence allowance is equal to 40% of the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area. Establishes the public officers compensation commission. Allows the commission to adopt rules to govern the proceedings of the commission and to set the salaries of the governor and other elected public officers in the executive branch. Permits the general assembly to establish salaries by statute and to void a salary rule of the commission. Provides for the salary of public officers if the general assembly voids a salary rule of the commission or repeals a statute setting the salary of a public officer. Repeals current statutes setting the salaries of public officers in the executive branch. Increases the annual salaries of local judges and appellate court judges by 5% effective January 1, 2002.

Effective: Upon passage; July 1, 2001; January 1, 2002.

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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HOUSE BILL No. 1856

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-3-1-1 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JANUARY 1, 2002]: Sec. 1. The annual salary of the
- 3 members of the general assembly shall be ~~eleven thousand six hundred~~
- 4 ~~dollars (\$11,600):~~ **an amount equal to twenty percent (20%) of the**
- 5 **governor's annual salary.** One-half (1/2) the annual salary shall be
- 6 paid on the fifteenth day of January, and one-half (1/2) the annual
- 7 salary shall be paid on the fifteenth day of February.
- 8 SECTION 2. IC 2-3-1-5 IS ADDED TO THE INDIANA CODE AS
- 9 A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 10 2001]: **Sec. 5. (a) This section applies during the following periods:**
- 11 **(1) Each day the general assembly is not convened in regular**
- 12 **or special session.**
- 13 **(2) Each day after the first session day and before the second**
- 14 **session day of each regular session.**
- 15 **(3) Each day described in subdivision (2) that the general**
- 16 **assembly is convened in special session.**
- 17 **(b) As used in this section, "maximum daily amount" refers to**



1 the maximum daily amount allowable to employees of the executive
2 branch of the federal government for subsistence expenses while
3 away from home in travel status in the Indianapolis area.

4 (c) Each member of the general assembly is entitled to a
5 subsistence allowance equal to forty percent (40%) of the
6 maximum daily amount.

7 (d) The subsistence allowance changes each time there is a
8 change in the maximum daily amount.

9 (e) The subsistence allowance is payable from appropriations
10 for legislators' subsistence.

11 SECTION 3. IC 2-8 IS ADDED TO THE INDIANA CODE AS A
12 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
13 2001]:

14 **ARTICLE 8. COMPENSATION OF PUBLIC OFFICERS**

15 **Chapter 1. General Provisions**

16 **Sec. 1. Notwithstanding IC 1-1-1-8, the provisions of this article**
17 **are not severable.**

18 **Chapter 2. Definitions**

19 **Sec. 1. The definitions in this chapter apply throughout this**
20 **article.**

21 **Sec. 2. "Commission" refers to the public officers compensation**
22 **commission established by IC 2-8-3-1.**

23 **Sec. 3. "Political subdivision" has the meaning set forth in**
24 **IC 36-1-2-13.**

25 **Sec. 4. "Public employee" refers to any of the following:**

- 26 (1) An employee of the state.
- 27 (2) An employee of a political subdivision.
- 28 (3) An employee of any other entity whose salary is paid in
29 any part from funds derived from taxes imposed by the state
30 or a political subdivision.

31 **Sec. 5. "Public officer" refers to any of the following:**

- 32 (1) The governor.
- 33 (2) The lieutenant governor.
- 34 (3) The secretary of state.
- 35 (4) The auditor of state.
- 36 (5) The treasurer of state.
- 37 (6) The attorney general.
- 38 (7) The clerk of the supreme court.
- 39 (8) The state superintendent of public instruction.

40 **Chapter 3. Public Officers Compensation Commission**

41 **Sec. 1. The public officers compensation commission is**
42 **established.**

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1 **Sec. 2. (a) The commission consists of the following members:**

2 **(1) Two (2) members appointed by the president pro tempore**
3 **of the senate.**

4 **(2) Two (2) members appointed by the speaker of the house of**
5 **representatives.**

6 **(3) One (1) member appointed by the minority leader of the**
7 **senate.**

8 **(4) One (1) member appointed by the minority leader of the**
9 **house of representatives.**

10 **(5) Three (3) members appointed by the governor. Not more**
11 **than two (2) members appointed under this subdivision may**
12 **be affiliated with the same political party. At least one (1)**
13 **member appointed under this subdivision must be regularly**
14 **engaged in the field of business finance or business**
15 **management. At least one (1) member appointed under this**
16 **subdivision must be experienced in the field of labor and**
17 **management relations.**

18 **(b) A public officer or a public employee may not be a**
19 **commission member.**

20 **Sec. 3. (a) The term of a commission member begins on the later**
21 **of the following:**

22 **(1) July 1 after the member is appointed.**

23 **(2) The day the member accepts the member's appointment.**

24 **(b) The term of a commission member expires on July 1 of the**
25 **fourth year after the year the member's term begins.**

26 **(c) A member may be reappointed to serve a new term.**

27 **Sec. 4. (a) If there is a vacancy on the commission, the**
28 **appointing authority that appointed the member whose position is**
29 **vacant shall appoint an individual to fill the vacancy as provided**
30 **in section 2 of this chapter.**

31 **(b) The member appointed under this section shall fill the**
32 **vacancy for the remainder of the unexpired term.**

33 **Sec. 5. (a) At the commission's last meeting before July 1 of each**
34 **year, the commission shall elect one (1) member to be chair of the**
35 **commission.**

36 **(b) The member who is elected chair of the commission serves**
37 **as chair beginning July 1 after election by the commission.**

38 **Sec. 6. Five (5) commission members constitute a quorum. The**
39 **affirmative vote of at least five (5) commission members is**
40 **necessary for the commission to take official action other than to**
41 **adjourn or to meet to hear reports or testimony.**

42 **Sec. 7. The commission shall meet at least two (2) times each**

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1 odd-numbered year at the call of the chair. The commission may
2 meet at other times as the commission considers necessary.

3 **Sec. 8.** Each member of the commission is entitled to the
4 following:

5 (1) The salary per diem provided under IC 4-10-11-2.1(b).

6 (2) Reimbursement for traveling expenses as provided under
7 IC 4-13-1-4.

8 (3) Other expenses actually incurred in connection with the
9 member's duties as provided in the state policies and
10 procedures established by the Indiana department of
11 administration and approved by the budget agency.

12 **Sec. 9.** The legislative services agency shall provide
13 administrative support for the commission. At the request of the
14 legislative services agency, the state personnel department shall
15 assign staff to provide research and other support to assist the
16 legislative services agency in providing administrative support to
17 the commission.

18 **Sec. 10.** The commission may contract with consultants as the
19 commission considers necessary to implement this article.

20 **Sec. 11.** The commission may adopt rules under IC 4-22-2 to fix
21 salaries of public officers.

22 **Sec. 12.** The commission may adopt bylaws to govern
23 commission proceedings. A bylaw is not required to be adopted as
24 a rule under IC 4-22-2.

25 **Sec. 13.** The commission shall make reports to the general
26 assembly as required by the legislative council.

27 **Sec. 14.** There is annually appropriated to the legislative
28 services agency from the state general fund the amount of money
29 necessary for the operation of the commission.

30 **Chapter 4. Adoption of Rules to Set Salaries of Public Officers**

31 **Sec. 1.** The commission shall meet at least one (1) time before
32 April 1 of each odd-numbered year to do the following:

33 (1) Receive information relating to the salaries of public
34 officers.

35 (2) Consider recommendations for suitable salaries for public
36 officers.

37 (3) Take testimony relating to the salaries of public officers.

38 (4) Adopt, if necessary, proposed rules to set the salaries of
39 public officers.

40 **Sec. 2. (a)** The commission shall meet at least one (1) time after
41 March 31 and before July 1 of each odd-numbered year to adopt
42 final rules based on proposed rules adopted under section 1 of this

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1 chapter.

2 (b) The commission must adopt a separate rule for each
3 separate public officer listed in IC 2-8-2-5.

4 (c) The commission is not required to adopt or amend a rule to
5 change the salary of a public officer if the commission considers
6 the current salary suitable.

7 (d) If the commission does not adopt a rule relating to the salary
8 of a public officer, the salary of the public officer is the salary
9 provided by law.

10 Sec. 3. A final rule adopted under section 2 of this chapter must
11 be published in the September edition of the Indiana Register.

12 Sec. 4. (a) When determining a suitable salary for a public
13 officer, the commission may consider the following:

- 14 (1) The responsibilities of the office.
15 (2) The educational background required or desired for an
16 individual who holds the office.
17 (3) The skills required or desired for the office.
18 (4) The experience required or desired for the office.
19 (5) The time required or desired to be spent to fulfill the
20 duties of the office.
21 (6) The opportunity or lack of opportunity that an individual
22 who holds the office has to earn other income.
23 (7) The salaries paid to government officers in other states
24 that have comparable duties and authority.
25 (8) Salaries paid to comparable professionals in the private
26 sector in Indiana and other comparable states based on the
27 responsibility and discretion required from or desired in an
28 individual who holds the office.
29 (9) The increase in the cost of living in Indiana since the most
30 recent increase in the salary of the public officer.
31 (10) Benefits other than salaries provided to public officers.
32 (11) Ability to attract and retain qualified individuals to be
33 public officers.
34 (12) The interests and welfare of the public.
35 (13) The financial ability of the state to meet the costs of
36 salaries recommended by the commission.
37 (14) Other factors the commission considers relevant.

38 (b) The commission may give the weight to the factors described
39 in subsection (a) that the commission considers appropriate.

40 (c) The commission has no authority over benefits other than
41 salaries. However, the commission may make recommendations to
42 the general assembly concerning benefits other than salaries.



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1 **Sec. 5. A rule adopted by the commission to set the salaries of a**
 2 **public officer takes effect as follows:**

3 **(1) If the rule relates to the salary of the governor, the final**
 4 **rule takes effect on the second Monday in January after an**
 5 **election for governor if the general assembly has not voided**
 6 **the rule.**

7 **(2) If the rule relates to the salary of a public officer other**
 8 **than the governor, the final rule takes effect on January 1 of**
 9 **the next odd-numbered year if the general assembly has not**
 10 **voided the rule.**

11 **Sec. 6. A rule relating to the salary of a public officer may not**
 12 **diminish the compensation of the public officer below its level at**
 13 **the time the rule becomes effective.**

14 **Sec. 7. This article does not affect the authority of the general**
 15 **assembly to do the following:**

16 **(1) Set salaries of public officers by statute.**

17 **(2) Void a rule of the commission by statute before or after**
 18 **the rule takes effect.**

19 **Sec. 8. (a) If the general assembly voids a rule of the commission**
 20 **or repeals a statute that sets the salary of a public officer, the**
 21 **salary of the public officer is the salary of the public officer set in**
 22 **the most recent rule or statute in effect.**

23 **(b) If the general assembly voids a rule of the commission or**
 24 **repeals a statute that sets the salary of a public officer, the**
 25 **commission shall adopt a rule that states the salary of the public**
 26 **officer set in the most recent rule or statute in effect.**

27 **SECTION 4. IC 4-3-3-1.1 IS AMENDED TO READ AS**
 28 **FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.1. (a) An individual**
 29 **who holds the office of governor for any length of time during one (1)**
 30 **term of that office is entitled to receive an annual retirement benefit**
 31 **under subsection (e). Provided, however, an individual who succeeds**
 32 **to the office of governor without being elected is not entitled to an**
 33 **annual retirement benefit under this section unless such person serves**
 34 **for more than one (1) year of the term of the office.**

35 **(b) An individual who holds the office of governor for any length of**
 36 **time during each of two (2) separate terms of that office is entitled to**
 37 **receive an annual retirement benefit under subsection (f).**

38 **(c) If an individual who holds the office of governor resigns or is**
 39 **removed from office, during a term of that office, for any reason except**
 40 **a mental or physical disability that renders him unable to discharge the**
 41 **powers and duties of the office, then the term during which he resigned**
 42 **or was removed may not be considered for determining his annual**

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1 retirement benefit under this section.

2 (d) The retirement benefit shall be paid in equal monthly
3 installments by the treasurer of state on warrant of the auditor of state
4 after a claim has been made for the retirement benefit to the auditor by
5 the governor or a person acting on his behalf. A governor shall choose
6 the date on which he will begin receiving his retirement benefit;
7 however, the date must be the first state employee payday of a month.
8 A governor may not receive the retirement benefit as long as he holds
9 an elective position with any federal, state, or local governmental unit,
10 and he may not receive the retirement benefit until he has reached at
11 least age sixty-two (62) years. The governor's choice of initial benefit
12 payment date and the governor's choice of benefit payment amount
13 under subsections (e) and (f) are revocable until the governor receives
14 the first monthly installment of his retirement benefit; after that
15 installment is received, the choice of date and the choice of amount are
16 irrevocable.

17 (e) With respect to a governor who is entitled to a retirement benefit
18 under subsection (a):

19 (1) if he chooses to begin receiving his retirement benefit on or
20 after the date he reaches age sixty-two (62) years but before he
21 reaches age sixty-five (65) years, he may choose to receive:

22 (A) the retirement benefits he is entitled to, if any, from the
23 public employees' retirement fund; or

24 (B) thirty percent (30%) of the governor's annual salary set:

25 (i) in IC 4-2-1-1 **before January 1, 2002; and**

26 (ii) **under IC 2-8 after December 31, 2001;**

27 for the remainder of his life; or

28 (2) if he chooses to begin receiving his retirement benefit on or
29 after the date he reaches age sixty-five (65) years, he may choose
30 to receive:

31 (A) the retirement benefits he is entitled to, if any, from the
32 public employees' retirement fund; or

33 (B) forty percent (40%) of the governor's annual salary set:

34 (i) in IC 4-2-1-1 **before January 1, 2002; and**

35 (ii) **under IC 2-8 after December 31, 2001;**

36 for the remainder of his life.

37 (f) With respect to a governor who is entitled to a retirement benefit
38 under subsection (b):

39 (1) if he chooses to begin receiving his retirement benefit on or
40 after the date he reaches age sixty-two (62) years but before he
41 reaches age sixty-five (65) years, he may choose to receive:

42 (A) the retirement benefits he is entitled to, if any, from the

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1 public employees' retirement fund;

2 (B) forty percent (40%) of the governor's annual salary set:

3 (i) in IC 4-2-1-1 before **January 1, 2002; and**

4 (ii) under **IC 2-8 after December 31, 2001;**

5 for the remainder of his life; or

6 (2) if he chooses to begin receiving his retirement benefit on or
7 after the date he reaches age sixty-five (65) years, he may choose
8 to receive:

9 (A) the retirement benefits he is entitled to, if any, from the
10 public employees' retirement fund; or

11 (B) fifty percent (50%) of the governor's annual salary set:

12 (i) in IC 4-2-1-1 before **January 1, 2002; and**

13 (ii) under **IC 2-8 after December 31, 2001;**

14 for the remainder of his life.

15 SECTION 5. IC 33-13-12-7.1 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 7.1. (a) The total
17 annual salary of each full-time judge of a circuit, superior, municipal,
18 county, or probate court is ~~ninety~~ **ninety-four** thousand **five hundred**
19 ~~dollars (\$90,000)~~ **and (\$94,500) plus** any additional salary provided
20 under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall pay all of the total
21 salary except for the additional salary, if any, under IC 36-2-5-14 or
22 IC 36-3-6-3(c). The state shall deposit quarterly the money received
23 from the counties under subsection (c) in the state general fund.

24 (b) Before November 2 of each year, the county auditor of each
25 county shall certify to the division of state court administration the
26 amounts, if any, to be provided by the county during the ensuing
27 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

28 (c) When making each payment under subsection (a), the county
29 shall determine for each judge whether the total of:

30 (1) the payment made on behalf of that judge;

31 (2) previous payments made on behalf of that judge in the same
32 calendar year; and

33 (3) the state share of the judge's salary under subsection (a);
34 exceeds the Social Security wage base established by the federal
35 government for that year. If the total does not exceed the Social
36 Security wage base, the payment on behalf of that judge must also be
37 accompanied by an amount equal to the employer's share of Social
38 Security taxes and Medicare taxes. If the total does exceed the Social
39 Security wage base, the part of the payment on behalf of the judge that
40 is below the Social Security wage base must be accompanied by an
41 amount equal to the employer's share of Social Security taxes and
42 Medicare taxes, and the part of the payment on behalf of the judge that

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1 exceeds the Social Security wage base must be accompanied by an
 2 amount equal to the employer's share of Medicare taxes. Payments
 3 made under this subsection shall be deposited in the state general fund
 4 under subsection (a).

5 (d) For purposes of determining the amount of life insurance
 6 premiums to be paid by a judge who participates in a life insurance
 7 program that:

8 (1) is established by the state;

9 (2) applies to a judge who is covered by this section; and

10 (3) bases the amount of premiums to be paid by the judge on the
 11 amount of the judge's salary;

12 the judge's salary does not include any amounts paid to the state by a
 13 county under subsection (a).

14 SECTION 6. IC 33-13-12-9 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. (a) The total
 16 annual salary for each justice of the supreme court of Indiana is one
 17 hundred ~~fifteen~~ **twenty** thousand ~~seven hundred fifty~~ dollars
 18 (~~\$115,000~~). **(\$120,750)**.

19 (b) The total annual salary for each judge of the court of appeals of
 20 Indiana is one hundred ~~ten~~ **fifteen** thousand ~~five hundred~~ dollars
 21 (~~\$110,000~~). **(\$115,500)**.

22 (c) The state shall pay the annual salaries prescribed in subsections
 23 (a) through (b) from the state general fund.

24 (d) In addition to said salary, there shall be paid in equal monthly
 25 payments on the first day of each month out of any money in the
 26 general fund of the state treasury not otherwise appropriated, the
 27 following annual subsistence allowances to assist in defraying expenses
 28 relating to or resulting from the discharge of the justice's or judge's
 29 official duties, for which no accounting shall be made by such judge:

30 (1) Five thousand five hundred dollars (\$5,500) to the chief
 31 justice of the supreme court.

32 (2) Five thousand five hundred dollars (\$5,500) to the chief judge
 33 of the court of appeals.

34 (3) Three thousand dollars (\$3,000) to each justice of the supreme
 35 court who is not the chief justice.

36 (4) Three thousand dollars (\$3,000) to each judge of the court of
 37 appeals who is not the chief judge.

38 (e) The state shall not furnish automobiles for the use of justices or
 39 judges compensated under this section.

40 SECTION 7. IC 4-2-1-1 IS REPEALED [EFFECTIVE JANUARY
 41 1, 2002].

42 SECTION 8. [EFFECTIVE UPON PASSAGE] (a) **As used in this**

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SECTION, "commission" refers to the public officers compensation commission established by IC 2-8-3-1, as added by this act.

(b) Notwithstanding IC 2-8-3-3, as added by this act, the term of a commission member expires as follows:

(1) The term of a member appointed by the president pro tempore of the senate under IC 2-8-3-2(a)(1), as added by this act, expires July 1, 2005.

(2) The term of a member appointed by the speaker of the house of representatives under IC 2-8-3-2(a)(2), as added by this act, expires July 1, 2005.

(3) The term of a member appointed by the minority leader of the senate under IC 2-8-3-2(a)(3), as added by this act, expires July 1, 2004.

(4) The term of a member appointed by the minority leader of the house of representatives under IC 2-8-3-2(a)(4), as added by this act, expires July 1, 2004.

(5) The term of a member appointed by the governor under IC 2-8-3-2(a)(5), as added by this act, expires as follows:

(A) The terms of two (2) members expire July 1, 2005.

(B) The term of one (1) member expires July 1, 2004.

When making an appointment under this subdivision, the governor shall state, subject to this subdivision, the date when the term of the member expires.

(c) The appointing authorities shall appoint the commission members under this SECTION not later than July 1, 2001.

(d) Notwithstanding IC 2-8-3-3, as added by this act, the term of a commission member begins the day the member accepts the member's appointment.

(e) This SECTION expires July 1, 2005.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 2-8-2, as added by this act, apply throughout this SECTION.

(b) The commission shall hold its first meeting on a date not later than September 1, 2001, set jointly by the speaker of the house of representatives and the president pro tempore of the senate. The speaker of the house or the president pro tempore, as determined by the speaker of the house and the president pro tempore, shall preside over the commission until the commission elects a commission chair. The commission's first order of business after the commission convenes is election of the commission chair. Notwithstanding IC 2-8-3-5, as added by this act, the member elected as chair under this SECTION serves beginning upon

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election. The commission may conduct other business at the first meeting.

(c) The commission shall meet not later than October 1, 2001, to adopt rules to set the salaries of public officers to be the same as the salaries of public officers set in IC 4-2-1-1. Notwithstanding IC 4-22-2 and IC 2-8, as added by this act, the rules adopted by the commission under this SECTION:

- (1) are the final rules for purposes of IC 4-22-2;
- (2) shall be published in the December 2001 edition of the Indiana Register; and
- (3) take effect January 1, 2002.

(d) The commission may do the following:

- (1) Receive information relating to salaries of public officers.
- (2) Consider recommendations for suitable salaries for public officers.
- (3) Take testimony relating to salaries of public officers.
- (4) Adopt, if necessary, proposed rules to amend the rules adopted under subsection (c) to change the salaries of public officers set in subsection (c).

Rules adopted under this subsection take effect subject to IC 2-8, as added by this act, and IC 4-22-2.

(e) This SECTION expires January 1, 2003.

SECTION 10. [EFFECTIVE UPON PASSAGE] Notwithstanding IC 1-1-1-8, the provisions of this act are not severable.

SECTION 11. An emergency is declared for this act.

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