

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4506-18
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS No. 2 for HBs 1692, 1209, 1405, 1499, 1535, & 1811
Subject: Attorney General, State; Boats and Watercraft; Civil Procedure; Courts; Crimes and Punishment; Criminal Procedure; Drainage and Levee Districts; Firearms and Fireworks; Housing; Landlords and Tenants; Licenses - Professional; Property, Real and Personal; Revenue Dept.; Sewers and Sewer Districts; Water Resources and Water Districts
Type: Original
Date: June 16, 2010

Bill Summary: Modifies the laws regarding real estate brokers and salespersons, court records, the state legal expense fund, coroners, and various other provisions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$28,724)	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	(\$28,724)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Missouri Real Estate Appraisal	\$0	\$2,778	\$2,769
PR Fees	(\$6,708)	\$0	\$0
Total Estimated Net Effect on Other State Funds	(\$6,708)	\$2,778	\$2,769

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE			

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Economic Development, Department of Social Services, Department of Public Safety - Missouri State Highway Patrol, Office of Prosecution Services, Office of State Treasurer, and State Tax Commission** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration (COA) - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar bills pass, there are more cases, or the cases are more complex, there may be a fiscal impact.

Officials from the **Department of Mental Health (DMH)** state provisions in the bill in 208.010 allow the state of Missouri to collect payment from refunded burial contracts up to the amount of public assistance that the individual received from the state. There could be some very nominal savings to the DMH.

Officials from the **Department of Elementary and Secondary Education (DES)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, the DES cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year.

Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

The DES defers to local school districts regarding any fiscal impact.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY 09 average of \$3.71 per offender, per day, or an annual cost of \$1,354 per offender). The DOC assumes the narrow scope of the crime will not encompass a large number of offenders and the low felony status enhances the possibility of plea-bargaining or imposition of a probation sentence. The probability also exists that offenders would be charged with a similar, but more serious offense, or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Natural Resources (DNR)** provide the following assumptions for this fiscal note:

Digital Cadastral Parcel Mapping System - Sections 60.670 and 327.272

Section 60.670.2 of this proposal would require the state land surveyor to write standards for maps with land boundaries tied to the Public Land Survey System or cadastre.

Section 60.530 states the land surveyor may hire professional staff as necessary to help carry out his responsibilities.

The DNR assumes a portion of a Professional Land Surveyor II would be responsible for authoring the standards and revising the standards every ten years. This FTE would be spending one-tenth time on the standards. In the fiscal note response to identical legislation from the 2009 session, the department assumed there would be a minimal fiscal impact.

The Land Survey Fee Fund is experiencing funding challenges. The program has had to reduce services which would make it difficult to absorb any additional responsibilities without additional resources. Therefore, the DNR has quantified the anticipated on-going fiscal impact and estimates FY 11 costs for the 0.1 FTE Land Surveyor II and associated expenses to be \$7,756; FY 12 costs are estimated to be \$9,585; and FY 13 costs are estimated to be \$9,873 (General Revenue Fund expenditures).

Property Assessment Clean Energy Act - Sections 67.2800, 67.2805, 67.2810, 67.2815, 67.2820, 67.2825, 67.2830, & 67.2835

This proposal would allow the State Environmental Improvement and Energy Resources Authority (EIARA) to, as needed, promulgate administrative rules and regulations relating to the

ASSUMPTION (continued)

following: 1) guidelines and specifications for administering the property assess clean energy local finance fund and 2) any clarification to the definitions of energy efficiency improvement and renewable energy improvement as EIERA may determine is necessary or advisable.

This proposal would allow EIERA to establish a “property assessed clean energy local finance fund” for the purpose of making loans to clean energy development boards to establish and maintain property assessed clean energy programs.

Under Section 67.2810, no later than July first of each year, the Clean Energy Development Boards would be required to file with each municipality that participated in the formation of the clean energy development board and with the director of the DNR, an annual report for the preceding calendar year as outlined in the proposal.

Section 67.2835 would authorize the Director of the Department of Economic Development to allocate the state’s residual share, or any portion thereof, of the National Qualified Energy Conservation Bond Limitation under Section 54D of the Internal Revenue Code of 1986, as amended, for any purposes described therein to the EIERA, any clean energy development board, that state, any political subdivision, instrumentality, or other body corporate and politic.

The DNR would not anticipate a significant direct fiscal impact from this portion of the proposal.

Oversight assumes the DNR can absorb the minimal duties and costs associated with the 0.1 FTE Land Surveyor II position (less than \$10,000 annually).

Officials from the **Office of Attorney General (AGO)** assume the AGO would require one (1) FTE Assistant Attorney General I (\$42,500 annually) to adequately handle licensing and disciplinary proceedings pursuant to the proposal. Total FY 11 costs are estimated to be \$73,385; FY 12 costs are estimated to be \$89,050; and FY 13 costs are estimated to be \$91,721.

The AGO assumes that any costs resulting from the remaining provisions could be absorbed with existing resources, but may seek an additional appropriation if increased referrals result.

Oversight assumes the AGO can absorb the additional licensing and disciplinary proceedings imposed by this proposal within current staffing levels. However, if the increase in duties becomes significant, the AGO can request additional staff through the appropriations process.

Officials from the **Office of the Secretary of State (SOS)** assume authority is given to the Department of Revenue (DOR), Department of Health and Senior Services (DOH), Department of Insurance, Financial Institutions and Professional Registration (DIFP) (various licensing boards), and the Department of Natural Resources (DNR) to promulgate rules. These rules will

ASSUMPTION (continued)

be printed in the Missouri Register and the Code of State Regulations. Based on experience with other departments, the rules, regulations, and forms issued by the DOR, DOH, DIFP (various licensing boards), and the DNR could require as many as 94 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23; the estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn. The SOS estimates FY 11 costs of \$5,781 [(94 pages X \$27) + (141 pages X \$23)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Revenue (DOR)** provide the following assumptions relating to this proposal:

ADMINISTRATIVE IMPACT:

Motor Vehicle Bureau:

Section 306.532

- Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours of overtime at a cost of \$805 in FY 11;
- The Application for Missouri Boat/Vessel or Outboard Motor Title and Registration (DOR-93) will need to be revised to include a new field labeled "Model Year-NEW". This will require 40 hours of overtime for a Management Analyst Specialist I at a cost of \$805 in FY 11;
- It is assumed that this proposal will increase the number of calls the DOR receives regarding marine title transactions by 5%. In FY 09, there were 7,624 phone calls received by the DOR regarding marine inquiries with an average of 953 phone calls per month. It is unknown how many of these calls were specifically about outboard motors. Assuming the calls will increase by 5%, this will result in 381 more phone calls per year. This will result in an FTE (Revenue Processing Tech 1) at 40 hours of overtime (time and a half pay) to answer and research associated questions. The cost is estimated to be \$402 in FY 11 (6 months); \$828 in FY 12; and \$852 in FY 13;

ASSUMPTION (continued)

- This proposal will potentially increase the number of marine outboard motor titles that error out and are rejected and cannot be processed due to the new information required. There were 189 outboard motor title transactions in FY 09. Assuming 18% of these were rejected (percentage of rejections based on percentage of overall rejections as the specific outboard motor number cannot be determined) and the same 5% increase as was assumed for phone inquiries, the result would be a minimal increase to the DOR's processing of those rejects.

Systems Modifications:

Section 306.532

- Information Technology (IT) will need to create a new error type in the Marine General Registration System as well as a new data field titled "Model Year New" to record the information on the system;
- The marine title print program will need to be updated to include the field "Model Year New";
- The Title and Registration Intranet Processing System (TRIPS) and the Key Entry Data System (KEDS) will need to be revised and updated to include the field "Model Year New".

Information Technology - ITSD

The DOR's response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's motor vehicle legacy systems, changes cannot be made without significant impact to the DOR's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$26,712 (calculated on 1008 FTE hours).

Oversight assumes the DOR can absorb the minimal overtime costs associated with FY 12 and FY 13.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the proposal adds one board member to the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. With the addition of this member, the board will incur increased personal service and expense and equipment costs. The members of the board receive per diem an average of 51 days annually. Additionally, the board receives reimbursement of necessary expenses for an average

ASSUMPTION (continued)

of four (4) meetings per year. The cost estimates for the implementation of this legislation includes \$2,550 per diem for the additional board member and \$1,484 in mileage, hotel, and meal reimbursements. Total costs for FY 11 are estimated to be \$4,034; costs for FY 12 are estimated to be \$4,079; and costs of \$4,124 are estimated for FY 13.

Officials from the DIFP state, based on a projection from the Missouri Advisory Council for Real Estate Appraisers, it is estimated that 150 individuals in the state of Missouri will be required to be licensed in FY 12. FY 12 licensing revenue is estimated at \$4,200 (150 individuals X \$28 licensing fee). Licenses are to be renewed annually at \$28 per licensee. A 3% growth rate is estimated.

It is assumed that all fees collected will be deposited into a fund for the Missouri Real Estate Appraisers Commission and that all expenses would be paid out of that fund. It is also assumed that no revenue will be generated by the Missouri Real Estate Appraisers in FY 11; therefore, expenses incurred by the commission will be paid back to the PR Fees Fund by a lending board within the division, pursuant to section 324.016, RSMo. It is estimated payback of any outstanding loans would be made in FY 14. However, should the number of licensees vary significantly from the number estimated, the licensure fees will be adjusted accordingly.

As the Missouri Real Estate Appraisers Commission is already established, the DIFP assumes the Commission will require two (2) additional commission meetings to draft rules for the licensing of real estate appraisal management companies. Additional committee meeting expense for FY 11 is estimated to be \$3,542. No additional meetings will be required in subsequent years.

Printing and postage expenses for the first year include printing rules, applications, letterhead and envelopes, as well as costs associated with mailings associated with initial licensure. Subsequent year's printing and postage is based on a board of similar size. The DIFP estimates FY 11 printing and postage expenses of \$1,875; subsequent years' expenses are estimated to be \$57 annually.

During the first year of implementation, costs are calculated for the design, program and implementation of the licensure program for new boards. Licensure system costs are estimated to be \$540.

Based on a board of similar size, it is estimated that the board will receive 3 complaints annually. The division does not anticipate receiving any complaints until FY 12. It is estimated that 30% (3 X 30% = 0.9 complaints or rounded to 1 complaint annually) of the complaints filed would require field investigations and that 50% of the complaints investigated would require an investigator to incur overnight expenses. Therefore, the DIFP estimates \$142 in annual investigative expenses.

ASSUMPTION (continued)

Boards within the division incur division-wide expenses based on specific board licensee averages in addition to the department and Office of Administration cost allocation plans. Approximately \$601 in additional expenses will be considered in calculating the anticipated license and renewal fees although these costs will not require additional appropriation for the Professional Registration Transfer Core budget.

Costs are calculated for services provided to the division by the Attorney General's Office (AGO) and the Administrative Hearing Commission (AHC). It is anticipated \$300 in annual costs will be incurred from the AGO and AHC beginning in FY 12. These costs are based on a board of similar size.

Oversight assumes the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects fund has a sufficient balance to cover the increase in costs for the additional board member. However, if necessary, the Board may need to adjust licensing fees to help cover the additional expenses.

Oversight assumes the division-wide expenses allocated to the Missouri Real Estate Appraisers Commission will result in an equal reduction in expenses allocated to other Boards within the Division of Professional Registration.

Officials from the **Parkway School District (Parkway)** state **Section 171.185** provided that "No school district located in any city of the third classification with more than forty-six thousand eight hundred but fewer than forty-seven thousand inhabitants shall operate a recycling center or materials recovery facility within five hundred feet of a residential property."

The impact to Parkway will depend on the means chosen to comply with the provisions of the bill. Following are some potential scenarios:

Option	Cost Impact	Comments
Move metals collection & prep to another Parkway location	One-time cost of \$10,000	Not a feasible option given disadvantages of neighbor concerns and operational inefficiencies.
Rent a facility in Manchester	Rental cost of \$16,200 per year	Additional cost to deconstruct offices. Also has limited on-site parking space and would be logistically challenging.

ASSUMPTION (continued)

Move to a non-Parkway property in Town & County near MoDOT	One-time cost of \$535,795	Would have to build structure and equipment. Potential concerns from neighbors & motorists.
Outsource collection of recyclable materials from schools (except metals)	Estimated at approximately \$1,725 per year	Approximately 158 tons of metal would end up in landfills. Would be a philosophical shift in recycling program.

Parkway has been working to modify the operation where materials are collected and processed for pick-up to address concerns of neighbors. Parkway believes this can and should be worked out at the local level.

Oversight assumes Parkway will select one between a number of options regarding its recycle program. Therefore, for fiscal note purposes, **Oversight** assumes unknown costs.

Officials from the **Office of State Public Defender** did not respond to our request for a statement of fiscal impact.

The proposal could have a fiscal impact on total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Costs - DOR</u>			
IT modifications and overtime costs	<u>(\$28,724)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$28,724)</u>	<u>\$0</u>	<u>\$0</u>
MISSOURI REAL ESTATE APPRAISERS FUND			
<u>Transfer-In - from PR Fees Fund</u>	\$6,708	\$0	\$0
<u>Revenue - DIFP</u>			
Licensing/renewal fees	\$0	\$4,200	\$4,252
<u>Costs - DIFP</u>			
Commission meeting expense	(\$3,542)	\$0	\$0
Expense and equipment	(\$3,166)	(\$1,422)	(\$1,483)
Total <u>Costs - DIFP</u>	<u>(\$6,708)</u>	<u>(\$1,422)</u>	<u>(\$1,483)</u>
ESTIMATED NET EFFECT ON MISSOURI REAL ESTATE APPRAISERS FUND	<u>\$0</u>	<u>\$2,778</u>	<u>\$2,769</u>
PR FEES FUND			
<u>Transfer-Out - to Missouri Real Estate Appraisers Fund</u>	<u>(\$6,708)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON PR FEES FUND	<u>(\$6,708)</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2011
(10 Mo.)

FY 2012

FY 2013

LOCAL GOVERNMENT - SCHOOL DISTRICT

Costs - Parkway School District

Moving recycling center

(Unknown)

(Unknown)

(Unknown)

ESTIMATED NET EFFECT ON LOCAL GOVERNMENT - SCHOOL DISTRICT

(Unknown)

(Unknown)

(Unknown)

FISCAL IMPACT - Small Business

The proposal will impact small business real estate appraisal management companies and individuals as they will be required to be licensed.

FISCAL DESCRIPTION

The bill: (1) Authorizes the Office of the State Land Surveyor within the Department of Natural Resources to establish rules setting minimum standards for digital cadastral parcel mapping. Any map designed and used to reflect legal property descriptions or boundaries for use in a digital cadastral mapping system must comply with the rules established by the office with certain exceptions. The bill also adds the determination of land boundaries and positions of the United States Public Land Survey System and the creation, preparation, and modification of electronic or computerized data to the list of work or services that a professional land surveyor can perform (Sections 60.670 and 327.272); (2) Establishes the Property Assessment Clean Energy Act; (3) Prohibits any school district located in Chesterfield from operating a materials recovery and recycling facility within 500 feet of a residential property (Section 171.185); (4) Specifies that the provisions of the Farmland Protection Act regarding charges for sewer and water line installation do not apply to any drainage or levee district; (5) Specifies that the term "employment" does not include services performed by a licensed real estate salesperson or licensed real estate broker if substantially all, instead of the current at least 80%, of the remuneration, whether or not paid in cash, for the services performed, rather than to the number of hours worked, is directly related to sales or other output, including the performance of services, performed pursuant to a written contract between the individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax purposes (Section 288.034); (6) Requires the certificate of title for a new outboard motor to contain both the year the motor was manufactured and the year the dealer received the motor from the manufacturer (Section 306.532); (7) Adds another professional engineer member to the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects. Eight members of the board, including at least one from each division will be required for a quorum for board

FISCAL DESCRIPTION (continued)

business. Two voting members of each division of the board will be required for a quorum for division business (Sections 327.031, 327.041, 327.351, and 327.411); (8) Changes the laws regarding the regulation of real estate brokers and salespersons to include limited partnerships, limited liability companies, and professional corporations and specifies that "real estate broker" will include these types of companies and "real estate salesperson" will include a single member limited liability company, partnership, limited partnership, association, professional corporation, or corporation (Sections 339.010 - 339.710); (9) Defines "boat slip" or "watercraft slip" for the purposes of real estate appraisers, establishing that such object is a part of a boat dock serving a common interest community and thus, real property (Section 339.503); (10) Requires the Missouri Real Estate Commission within the Department of Insurance, Financial Institutions and Professional Registration upon receiving notice from the Department of Revenue that a licensee is delinquent in paying his or her taxes to immediately send a copy of the notice to the broker with which the licensee is associated (Section 339.845); (11) Requires appraisal management companies to register with the Missouri Real Estate Appraisers Commission. This registration is valid for two years. (Sections 339.1100 - 339.1240); (12) Exempts a tenant from liability for rent payments during the remainder of the term of a lease agreement when his or her residence is destroyed by an act of God or other natural or man-made disaster unless the tenant caused the disaster (Section 441.645); (13) Specifies that an individual who owns or leases private property may use deadly force against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter the property. The owner or lessor of the private property does not have a duty to retreat from the property (Sections 563.011 and 563.031).

The bill: (1) Exempts all prosecuting attorneys, assistant prosecuting attorneys, circuit attorneys, and assistant circuit attorneys who have completed the firearms safety training course required under Section 571.111 from the general prohibition on carrying concealed firearms and from certain other restrictions in Section 571.030 (Section 571.030); (2) Specifies that a person commits the crime of unlawful use of weapons if he or she knowingly has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses the firearm or projectile weapon in either a negligent or unlawful manner or discharges the firearm or projectile weapon unless acting in self-defense (Section 571.030); (3) Allows the sheriff of the new jurisdiction to charge a processing fee of up to \$10 for a change of address for a concealed carry endorsement and to charge a fee of up to \$10 to change the name on an endorsement (Sections 571.104 and 571.107); (4) Exempts the possession of antique firearms, as defined in 18 U.S.C. Section 921, from the provision that specifies a person commits the crime of unlawful possession of a firearm if he or she is a convicted felon possessing a firearm (Section 571.070); (5) Establishes procedures for asserting a mechanic's lien against residential real property other than a mechanic's lien for the repair,

FISCAL DESCRIPTION (continued)

remodeling, or addition to owner-occupied residential property of four units or less; and (9) Allows any county to use money collected pursuant to Section 488.426 for courtroom renovation and technology enhancement, or for debt service on county bonds for such renovation or enhancement projects. Currently, counties on the nonpartisan court plan are not allowed to use these funds in this manner (Section 488.429).

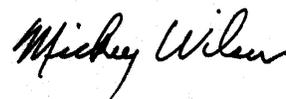
The provision regarding outboard motor certificate of titles becomes effective January 1, 2011.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Social Services
Department of Public Safety -
 Missouri State Highway Patrol
Office of Prosecution Services
Office of Secretary of State
Office of State Treasurer
State Tax Commission
Parkway School District

NOTE RESPONDING: Office of State Public Defender



Mickey Wilson, CPA

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