

SECOND REGULAR SESSION

SENATE BILL NO. 880

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 8, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4839S.01I

AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to adjustments to tax rate levies of political subdivisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 137.073, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 137.073, to read as follows:

137.073. 1. As used in this section, the following terms mean:

2 (1) "General reassessment", changes in value, entered in the assessor's
3 books, of a substantial portion of the parcels of real property within a county
4 resulting wholly or partly from reappraisal of value or other actions of the
5 assessor or county equalization body or ordered by the state tax commission or
6 any court;

7 (2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax
8 rate for each purpose of taxation of property a taxing authority is authorized to
9 levy without a vote and any tax rate authorized by election, including bond
10 interest and sinking fund;

11 (3) "Tax rate ceiling", a tax rate as revised by the taxing authority to
12 comply with the provisions of this section or when a court has determined the tax
13 rate; except that, other provisions of law to the contrary notwithstanding, a school
14 district may levy the operating levy for school purposes required for the current
15 year pursuant to subsection 2 of section 163.021, less all adjustments required
16 pursuant to Article X, Section 22 of the Missouri Constitution, if such tax rate
17 does not exceed the highest tax rate in effect subsequent to the 1980 tax
18 year. This is the maximum tax rate that may be levied, unless a higher tax rate
19 ceiling is approved by voters of the political subdivision as provided in this

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 section;

21 (4) "Tax revenue", when referring to the previous year, means the actual
22 receipts from ad valorem levies on all classes of property, including state-assessed
23 property, in the immediately preceding fiscal year of the political subdivision,
24 plus an allowance for taxes billed but not collected in the fiscal year and plus an
25 additional allowance for the revenue which would have been collected from
26 property which was annexed by such political subdivision but which was not
27 previously used in determining tax revenue pursuant to this section. The term
28 "tax revenue" shall not include any receipts from ad valorem levies on any
29 property of a railroad corporation or a public utility, as these terms are defined
30 in section 386.020, which were assessed by the assessor of a county or city in the
31 previous year but are assessed by the state tax commission in the current year.
32 All school districts and those counties levying sales taxes pursuant to chapter 67
33 shall include in the calculation of tax revenue an amount equivalent to that by
34 which they reduced property tax levies as a result of sales tax pursuant to section
35 67.505 and section 164.013 [or as excess home dock city or county fees as
36 provided in subsection 4 of section 313.820] in the immediately preceding fiscal
37 year but not including any amount calculated to adjust for prior years. For
38 purposes of political subdivisions which were authorized to levy a tax in the prior
39 year but which did not levy such tax or levied a reduced rate, the term "tax
40 revenue", as used in relation to the revision of tax levies mandated by law, shall
41 mean the revenues equal to the amount that would have been available if the
42 voluntary rate reduction had not been made.

43 2. Whenever changes in assessed valuation are entered in the assessor's
44 books for any personal property, in the aggregate, or for any subclass of real
45 property as such subclasses are established in Section 4(b) of Article X of the
46 Missouri Constitution and defined in section 137.016, the county clerk in all
47 counties and the assessor of St. Louis City shall notify each political subdivision
48 wholly or partially within the county or St. Louis City of the change in valuation
49 of each subclass of real property, individually, and personal property, in the
50 aggregate, exclusive of new construction and improvements. All political
51 subdivisions shall immediately revise the applicable rates of levy for each purpose
52 for each subclass of real property, individually, and personal property, in the
53 aggregate, for which taxes are levied to the extent necessary to produce from all
54 taxable property, exclusive of new construction and improvements, substantially
55 the same amount of tax revenue as was produced in the previous year for each

56 subclass of real property, individually, and personal property, in the aggregate,
57 except that the rate shall not exceed the greater of the most recent
58 voter-approved rate or the most recent voter-approved rate as adjusted under
59 subdivision (2) of subsection 5 of this section. Any political subdivision that has
60 received approval from voters for a tax increase after August 27, 2008, may levy
61 a rate to collect substantially the same amount of tax revenue as the amount of
62 revenue that would have been derived by applying the voter-approved increased
63 tax rate ceiling to the total assessed valuation of the political subdivision as most
64 recently certified by the city or county clerk on or before the date of the election
65 in which such increase is approved, increased by the percentage increase in the
66 consumer price index, as provided by law, except that the rate shall not exceed
67 the greater of the most recent voter-approved rate or the most recent
68 voter-approved rate as adjusted under subdivision (2) of subsection 5 of this
69 section. Such tax revenue shall not include any receipts from ad valorem levies
70 on any real property which was assessed by the assessor of a county or city in
71 such previous year but is assessed by the assessor of a county or city in the
72 current year in a different subclass of real property. Where the taxing authority
73 is a school district for the purposes of revising the applicable rates of levy for
74 each subclass of real property, the tax revenues from state-assessed railroad and
75 utility property shall be apportioned and attributed to each subclass of real
76 property based on the percentage of the total assessed valuation of the county
77 that each subclass of real property represents in the current taxable year. As
78 provided in Section 22 of Article X of the constitution, a political subdivision may
79 also revise each levy to allow for inflationary assessment growth occurring within
80 the political subdivision. The inflationary growth factor for any such subclass of
81 real property or personal property shall be limited to the actual assessment
82 growth in such subclass or class, exclusive of new construction and improvements,
83 and exclusive of the assessed value on any real property which was assessed by
84 the assessor of a county or city in the current year in a different subclass of real
85 property, but not to exceed the consumer price index or five percent, whichever
86 is lower. Should the tax revenue of a political subdivision from the various tax
87 rates determined in this subsection be different than the tax revenue that would
88 have been determined from a single tax rate as calculated pursuant to the method
89 of calculation in this subsection prior to January 1, 2003, then the political
90 subdivision shall revise the tax rates of those subclasses of real property,
91 individually, and/or personal property, in the aggregate, in which there is a tax

92 rate reduction, pursuant to the provisions of this subsection. Such revision shall
93 yield an amount equal to such difference and shall be apportioned among such
94 subclasses of real property, individually, and/or personal property, in the
95 aggregate, based on the relative assessed valuation of the class or subclasses of
96 property experiencing a tax rate reduction. Such revision in the tax rates of each
97 class or subclass shall be made by computing the percentage of current year
98 adjusted assessed valuation of each class or subclass with a tax rate reduction to
99 the total current year adjusted assessed valuation of the class or subclasses with
100 a tax rate reduction, multiplying the resulting percentages by the revenue
101 difference between the single rate calculation and the calculations pursuant to
102 this subsection and dividing by the respective adjusted current year assessed
103 valuation of each class or subclass to determine the adjustment to the rate to be
104 levied upon each class or subclass of property. The adjustment computed herein
105 shall be multiplied by one hundred, rounded to four decimals in the manner
106 provided in this subsection, and added to the initial rate computed for each class
107 or subclass of property. For school districts that levy separate tax rates on each
108 subclass of real property and personal property in the aggregate, if voters
109 approved a ballot before January 1, 2011, that presented separate stated tax
110 rates to be applied to the different subclasses of real property and personal
111 property in the aggregate, or increases the separate rates that may be levied on
112 the different subclasses of real property and personal property in the aggregate
113 by different amounts, the tax rate that shall be used for the single tax rate
114 calculation shall be a blended rate, calculated in the manner provided under
115 subdivision (1) of subsection 6 of this section. Notwithstanding any provision of
116 this subsection to the contrary, no revision to the rate of levy for personal
117 property shall cause such levy to increase over the levy for personal property from
118 the prior year.

119 3. (1) Where the taxing authority is a school district, it shall be required
120 to revise the rates of levy to the extent necessary to produce from all taxable
121 property, including state-assessed railroad and utility property, which shall be
122 separately estimated in addition to other data required in complying with section
123 164.011, substantially the amount of tax revenue permitted in this section. In
124 the year following tax rate reduction, the tax rate ceiling may be adjusted to
125 offset such district's reduction in the apportionment of state school moneys due
126 to its reduced tax rate. However, in the event any school district, in calculating
127 a tax rate ceiling pursuant to this section, requiring the estimating of effects of

128 state-assessed railroad and utility valuation or loss of state aid, discovers that the
129 estimates used result in receipt of excess revenues, which would have required
130 a lower rate if the actual information had been known, the school district shall
131 reduce the tax rate ceiling in the following year to compensate for the excess
132 receipts, and the recalculated rate shall become the tax rate ceiling for purposes
133 of this section.

134 (2) For any political subdivision which experiences a reduction in the
135 amount of assessed valuation relating to a prior year, due to decisions of the state
136 tax commission or a court pursuant to sections 138.430 to 138.433, or due to
137 clerical errors or corrections in the calculation or recordation of any assessed
138 valuation:

139 (a) Such political subdivision may revise the tax rate ceiling for each
140 purpose it levies taxes to compensate for the reduction in assessed value
141 occurring after the political subdivision calculated the tax rate ceiling for the
142 particular subclass of real property or for personal property, in the aggregate, in
143 a prior year. Such revision by the political subdivision shall be made at the time
144 of the next calculation of the tax rate for the particular subclass of real property
145 or for personal property, in the aggregate, after the reduction in assessed
146 valuation has been determined and shall be calculated in a manner that results
147 in the revised tax rate ceiling being the same as it would have been had the
148 corrected or finalized assessment been available at the time of the prior
149 calculation;

150 (b) In addition, for up to three years following the determination of the
151 reduction in assessed valuation as a result of circumstances defined in this
152 subdivision, such political subdivision may levy a tax rate for each purpose it
153 levies taxes above the revised tax rate ceiling provided in paragraph (a) of this
154 subdivision to recoup any revenues it was entitled to receive had the corrected or
155 finalized assessment been available at the time of the prior calculation.

156 4. (1) In order to implement the provisions of this section and Section 22
157 of Article X of the Constitution of Missouri, the term improvements shall apply
158 to both real and personal property. In order to determine the value of new
159 construction and improvements, each county assessor shall maintain a record of
160 real property valuations in such a manner as to identify each year the increase
161 in valuation for each political subdivision in the county as a result of new
162 construction and improvements. The value of new construction and
163 improvements shall include the additional assessed value of all improvements or

164 additions to real property which were begun after and were not part of the prior
165 year's assessment, except that the additional assessed value of all improvements
166 or additions to real property which had been totally or partially exempt from ad
167 valorem taxes pursuant to sections 99.800 to 99.865, sections 135.200 to 135.255,
168 and section 353.110 shall be included in the value of new construction and
169 improvements when the property becomes totally or partially subject to
170 assessment and payment of all ad valorem taxes. The aggregate increase in
171 valuation of personal property for the current year over that of the previous year
172 is the equivalent of the new construction and improvements factor for personal
173 property. Notwithstanding any opt-out implemented pursuant to subsection 15
174 of section 137.115, the assessor shall certify the amount of new construction and
175 improvements and the amount of assessed value on any real property which was
176 assessed by the assessor of a county or city in such previous year but is assessed
177 by the assessor of a county or city in the current year in a different subclass of
178 real property separately for each of the three subclasses of real property for each
179 political subdivision to the county clerk in order that political subdivisions shall
180 have this information for the purpose of calculating tax rates pursuant to this
181 section and Section 22, Article X, Constitution of Missouri. In addition, the state
182 tax commission shall certify each year to each county clerk the increase in the
183 general price level as measured by the Consumer Price Index for All Urban
184 Consumers for the United States, or its successor publications, as defined and
185 officially reported by the United States Department of Labor, or its successor
186 agency. The state tax commission shall certify the increase in such index on the
187 latest twelve-month basis available on February first of each year over the
188 immediately preceding prior twelve-month period in order that political
189 subdivisions shall have this information available in setting their tax rates
190 according to law and Section 22 of Article X of the Constitution of Missouri. For
191 purposes of implementing the provisions of this section and Section 22 of Article
192 X of the Missouri Constitution, the term "property" means all taxable property,
193 including state-assessed property.

194 (2) Each political subdivision required to revise rates of levy pursuant to
195 this section or Section 22 of Article X of the Constitution of Missouri shall
196 calculate each tax rate it is authorized to levy and, in establishing each tax rate,
197 shall consider each provision for tax rate revision provided in this section and
198 Section 22 of Article X of the Constitution of Missouri, separately and without
199 regard to annual tax rate reductions provided in section 67.505 and section

200 164.013. Each political subdivision shall set each tax rate it is authorized to levy
201 using the calculation that produces the lowest tax rate ceiling. It is further the
202 intent of the general assembly, pursuant to the authority of Section 10(c) of
203 Article X of the Constitution of Missouri, that the provisions of such section be
204 applicable to tax rate revisions mandated pursuant to Section 22 of Article X of
205 the Constitution of Missouri as to reestablishing tax rates as revised in
206 subsequent years, enforcement provisions, and other provisions not in conflict
207 with Section 22 of Article X of the Constitution of Missouri. Annual tax rate
208 reductions provided in section 67.505 and section 164.013 shall be applied to the
209 tax rate as established pursuant to this section and Section 22 of Article X of the
210 Constitution of Missouri, unless otherwise provided by law.

211 5. (1) In all political subdivisions, the tax rate ceiling established
212 pursuant to this section shall not be increased unless approved by a vote of the
213 people. Approval of the higher tax rate shall be by at least a majority of votes
214 cast. When a proposed higher tax rate requires approval by more than a simple
215 majority pursuant to any provision of law or the constitution, the tax rate
216 increase must receive approval by at least the majority required.

217 (2) When voters approve an increase in the tax rate, the amount of the
218 increase shall be added to the tax rate ceiling as calculated pursuant to this
219 section to the extent the total rate does not exceed any maximum rate prescribed
220 by law. If a ballot question presents a stated tax rate for approval rather than
221 describing the amount of increase in the question, the stated tax rate approved
222 shall be adjusted as provided in this section and, so adjusted, shall be the current
223 tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted
224 such that when applied to the current total assessed valuation of the political
225 subdivision, excluding new construction and improvements since the date of the
226 election approving such increase, the revenue derived from the adjusted tax rate
227 ceiling is equal to the sum of: the amount of revenue which would have been
228 derived by applying the voter-approved increased tax rate ceiling to total assessed
229 valuation of the political subdivision, as most recently certified by the city or
230 county clerk on or before the date of the election in which such increase is
231 approved, increased by the percentage increase in the consumer price index, as
232 provided by law. Such adjusted tax rate ceiling may be applied to the total
233 assessed valuation of the political subdivision at the setting of the next tax rate.
234 If a ballot question presents a phased-in tax rate increase, upon voter approval,
235 each tax rate increase shall be adjusted in the manner prescribed in this section

236 to yield the sum of: the amount of revenue that would be derived by applying
237 such voter-approved increased rate to the total assessed valuation, as most
238 recently certified by the city or county clerk on or before the date of the election
239 in which such increase was approved, increased by the percentage increase in the
240 consumer price index, as provided by law, from the date of the election to the time
241 of such increase and, so adjusted, shall be the current tax rate ceiling.

242 **(3) The provisions of subdivision (2) of this subsection**
243 **notwithstanding, if prior to the expiration of a temporary levy increase**
244 **voters approve a subsequent levy increase, the new tax rate ceiling**
245 **shall remain in effect only until such time as the temporary levy**
246 **expires under the terms originally approved by a vote of the people, at**
247 **which time the tax rate ceiling shall be decreased by the amount of the**
248 **temporary levy increase.**

249 **(4)** The governing body of any political subdivision may levy a tax rate
250 lower than its tax rate ceiling and may, in a nonreassessment year, increase that
251 lowered tax rate to a level not exceeding the tax rate ceiling without voter
252 approval in the manner provided under subdivision ~~[(4)]~~ **(5)** of this
253 subsection. Nothing in this section shall be construed as prohibiting a political
254 subdivision from voluntarily levying a tax rate lower than that which is required
255 under the provisions of this section or from seeking voter approval of a reduction
256 to such political subdivision's tax rate ceiling.

257 ~~[(4)]~~ **(5)** In a year of general reassessment, a governing body whose tax
258 rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the
259 provisions of subsection 4 of this section as if its tax rate was at the tax rate
260 ceiling. In a year following general reassessment, if such governing body intends
261 to increase its tax rate, the governing body shall conduct a public hearing, and
262 in a public meeting it shall adopt an ordinance, resolution, or policy statement
263 justifying its action prior to setting and certifying its tax rate. The provisions of
264 this subdivision shall not apply to any political subdivision which levies a tax
265 rate lower than its tax rate ceiling solely due to a reduction required by law
266 resulting from sales tax collections. The provisions of this subdivision shall not
267 apply to any political subdivision which has received voter approval for an
268 increase to its tax rate ceiling subsequent to setting its most recent tax rate.

269 6. (1) For the purposes of calculating state aid for public schools pursuant
270 to section 163.031, each taxing authority which is a school district shall
271 determine its proposed tax rate as a blended rate of the classes or subclasses of

272 property. Such blended rate shall be calculated by first determining the total tax
273 revenue of the property within the jurisdiction of the taxing authority, which
274 amount shall be equal to the sum of the products of multiplying the assessed
275 valuation of each class and subclass of property by the corresponding tax rate for
276 such class or subclass, then dividing the total tax revenue by the total assessed
277 valuation of the same jurisdiction, and then multiplying the resulting quotient
278 by a factor of one hundred. Where the taxing authority is a school district, such
279 blended rate shall also be used by such school district for calculating revenue
280 from state-assessed railroad and utility property as defined in chapter 151 and
281 for apportioning the tax rate by purpose.

282 (2) Each taxing authority proposing to levy a tax rate in any year shall
283 notify the clerk of the county commission in the county or counties where the tax
284 rate applies of its tax rate ceiling and its proposed tax rate. Each taxing
285 authority shall express its proposed tax rate in a fraction equal to the nearest
286 one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then
287 one/one-hundredth of a cent. If a taxing authority shall round to
288 one/one-hundredth of a cent, it shall round up a fraction greater than or equal to
289 five/one-thousandth of one cent to the next higher one/one-hundredth of a cent;
290 if a taxing authority shall round to one-tenth of a cent, it shall round up a
291 fraction greater than or equal to five/one-hundredths of a cent to the next higher
292 one-tenth of a cent. Any taxing authority levying a property tax rate shall
293 provide data, in such form as shall be prescribed by the state auditor by rule,
294 substantiating such tax rate complies with Missouri law. All forms for the
295 calculation of rates pursuant to this section shall be promulgated as a rule and
296 shall not be incorporated by reference. The state auditor shall promulgate rules
297 for any and all forms for the calculation of rates pursuant to this section which
298 do not currently exist in rule form or that have been incorporated by reference.
299 In addition, each taxing authority proposing to levy a tax rate for debt service
300 shall provide data, in such form as shall be prescribed by the state auditor by
301 rule, substantiating the tax rate for debt service complies with Missouri law. A
302 tax rate proposed for annual debt service requirements will be prima facie valid
303 if, after making the payment for which the tax was levied, bonds remain
304 outstanding and the debt fund reserves do not exceed the following year's
305 payments. The county clerk shall keep on file and available for public inspection
306 all such information for a period of three years. The clerk shall, within three
307 days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling

308 and proposed tax rate and any substantiating data to the state auditor. The state
309 auditor shall, within fifteen days of the date of receipt, examine such information
310 and return to the county clerk his or her findings as to compliance of the tax rate
311 ceiling with this section and as to compliance of any proposed tax rate for debt
312 service with Missouri law. If the state auditor believes that a taxing authority's
313 proposed tax rate does not comply with Missouri law, then the state auditor's
314 findings shall include a recalculated tax rate, and the state auditor may request
315 a taxing authority to submit documentation supporting such taxing authority's
316 proposed tax rate. The county clerk shall immediately forward a copy of the
317 auditor's findings to the taxing authority and shall file a copy of the findings with
318 the information received from the taxing authority. The taxing authority shall
319 have fifteen days from the date of receipt from the county clerk of the state
320 auditor's findings and any request for supporting documentation to accept or
321 reject in writing the rate change certified by the state auditor and to submit all
322 requested information to the state auditor. A copy of the taxing authority's
323 acceptance or rejection and any information submitted to the state auditor shall
324 also be mailed to the county clerk. If a taxing authority rejects a rate change
325 certified by the state auditor and the state auditor does not receive supporting
326 information which justifies the taxing authority's original or any subsequent
327 proposed tax rate, then the state auditor shall refer the perceived violations of
328 such taxing authority to the attorney general's office and the attorney general is
329 authorized to obtain injunctive relief to prevent the taxing authority from levying
330 a violative tax rate.

331 (3) In the event that the taxing authority incorrectly completes the forms
332 created and promulgated under subdivision (2) of this subsection, or makes a
333 clerical error, the taxing authority may submit amended forms with an
334 explanation for the needed changes. If such amended forms are filed under
335 regulations prescribed by the state auditor, the state auditor shall take into
336 consideration such amended forms for the purposes of this subsection.

337 7. No tax rate shall be extended on the tax rolls by the county clerk unless
338 the political subdivision has complied with the foregoing provisions of this
339 section.

340 8. Whenever a taxpayer has cause to believe that a taxing authority has
341 not complied with the provisions of this section, the taxpayer may make a formal
342 complaint with the prosecuting attorney of the county. Where the prosecuting
343 attorney fails to bring an action within ten days of the filing of the complaint, the

344 taxpayer may bring a civil action pursuant to this section and institute an action
345 as representative of a class of all taxpayers within a taxing authority if the class
346 is so numerous that joinder of all members is impracticable, if there are questions
347 of law or fact common to the class, if the claims or defenses of the representative
348 parties are typical of the claims or defenses of the class, and if the representative
349 parties will fairly and adequately protect the interests of the class. In any class
350 action maintained pursuant to this section, the court may direct to the members
351 of the class a notice to be published at least once each week for four consecutive
352 weeks in a newspaper of general circulation published in the county where the
353 civil action is commenced and in other counties within the jurisdiction of a taxing
354 authority. The notice shall advise each member that the court will exclude him
355 or her from the class if he or she so requests by a specified date, that the
356 judgment, whether favorable or not, will include all members who do not request
357 exclusion, and that any member who does not request exclusion may, if he or she
358 desires, enter an appearance. In any class action brought pursuant to this
359 section, the court, in addition to the relief requested, shall assess against the
360 taxing authority found to be in violation of this section the reasonable costs of
361 bringing the action, including reasonable attorney's fees, provided no attorney's
362 fees shall be awarded any attorney or association of attorneys who receive public
363 funds from any source for their services. Any action brought pursuant to this
364 section shall be set for hearing as soon as practicable after the cause is at issue.

365 9. If in any action, including a class action, the court issues an order
366 requiring a taxing authority to revise the tax rates as provided in this section or
367 enjoins a taxing authority from the collection of a tax because of its failure to
368 revise the rate of levy as provided in this section, any taxpayer paying his or her
369 taxes when an improper rate is applied has erroneously paid his or her taxes in
370 part, whether or not the taxes are paid under protest as provided in section
371 139.031 or otherwise contested. The part of the taxes paid erroneously is the
372 difference in the amount produced by the original levy and the amount produced
373 by the revised levy. The township or county collector of taxes or the collector of
374 taxes in any city shall refund the amount of the tax erroneously paid. The taxing
375 authority refusing to revise the rate of levy as provided in this section shall make
376 available to the collector all funds necessary to make refunds pursuant to this
377 subsection. No taxpayer shall receive any interest on any money erroneously paid
378 by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing
379 in this section shall be construed to require a taxing authority to refund any tax

erroneously paid prior to or during the third tax year preceding the current tax year.

10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

✓

Bill

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