

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
1.15.09

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LLS NO. 09-0654.01 Kate Meyer

SENATE BILL

SENATE SPONSORSHIP

Isgar,

HOUSE SPONSORSHIP

(None),

SHORT TITLE: "Water Conservation Bd Construction Fund"

DEADLINES: Finalize by: 01/21/2009 File by: 01/23/2009

A BILL FOR AN ACT

101 CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION
102 BOARD PROJECTS, AND MAKING APPROPRIATIONS IN
103 CONNECTION THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Appropriates the following amounts from the Colorado water conservation board construction fund for the following projects:

- \$350,000 for satellite monitoring system maintenance;
- \$50,000 for instream flow engineering and technical support services;
- \$100,000 for water resource planning studies;

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- \$1,500,000 for continuation of the alternative agriculture water transfer sustainability program;
- \$500,000 for water adaptation partnership projects;
- \$175,000 for the continuation of the weather modification program;
- \$300,000 for an update to the national oceanic and atmospheric administration statewide precipitation atlas;
- \$30,000 for dust-on-snow studies;
- Up to \$500,000 for continuation of the Colorado floodplain map modernization program;
- \$250,000 for continuation of the watershed restoration program;
- \$125,000 for continuation of floodplain technical services;
- Up to \$300,000 to restore the unencumbered balance in the flood response fund to \$300,000;
- \$550,000 to continue the water resources information center and data harvesting initiative;
- \$50,000 to enhance the Colorado decision support systems with the modflow model;
- \$150,000 for continuation of the South Platte decision support system;
- \$1,000,000 for continuation of the Colorado river water availability study, Phase 2;
- \$250,000 to Arkansas river surface water rules technical and financial assistance; and
- Up to \$2,200,000 to restore the unencumbered balance in the litigation fund to \$4,000,000.

Creates the continuously appropriated wild and scenic rivers fund for the purpose of exploring alternatives that fall within the wild and scenic designation process. <{***See notes in bill Section 19.***}> Directs the state treasurer to transfer \$400,000 from the Colorado water conservation board construction fund to the wild and scenic rivers fund. Requires annual review by the board of the purposes for the wild and scenic rivers fund in order to determine whether the wild and scenic rivers fund is necessary.

Amends a 2007 provision authorizing the board to loan moneys from the severance tax trust fund perpetual base account for certain water resources projects to allow sponsors of the projects 2 additional years to enter into loan contracts with the board.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Satellite monitoring system maintenance -**

1 **appropriation.** (1) In addition to any other appropriation, there is
2 hereby appropriated, out of any moneys in the Colorado water
3 conservation board construction fund not otherwise appropriated, to the
4 department of natural resources, for allocation to the division of water
5 resources, for the fiscal year beginning July 1, 2009, the sum of three
6 hundred fifty thousand dollars (\$350,000), or so much thereof as may be
7 necessary, for renovation of existing gauging stations, replacement of
8 outdated collection platforms, and upgrading of transmission components
9 of the satellite monitoring system established and operated pursuant to
10 section 37-80-102 (10), Colorado Revised Statutes, stream gauge flood
11 hardening projects, and data collection efforts related to flood forecasting
12 and warning.

13 (2) The moneys appropriated in subsection (1) of this section shall
14 remain available for the designated purposes until they are fully
15 expended.

16 **SECTION 2. Instream flow engineering and technical support**
17 **services - appropriation.** (1) In addition to any other appropriation,
18 there is hereby appropriated, out of any moneys in the Colorado water
19 conservation board construction fund not otherwise appropriated, to the
20 department of natural resources, for allocation to the Colorado water
21 conservation board, for the fiscal year beginning July 1, 2009, the sum of
22 fifty thousand dollars (\$50,000), or so much thereof as may be necessary,
23 for engineering and technical support services to assist staff in conducting
24 technical analysis and providing expert testimony needed to resolve or
25 defend existing instream flow water rights, establish new instream flow
26 appropriations, and change the use of acquired water rights to instream
27 flow use.

1 (2) The moneys appropriated in subsection (1) of this section shall
2 remain available for the designated purposes until they are fully
3 expended.

4 **SECTION 3. Water resources planning studies -**
5 **appropriation.** (1) In addition to any other appropriation, there is
6 hereby appropriated, out of any moneys in the Colorado water
7 conservation board construction fund not otherwise appropriated, to the
8 department of natural resources, for allocation to the Colorado water
9 conservation board, for the fiscal year beginning July 1, 2009, the sum of
10 one hundred thousand dollars (\$100,000), or so much thereof as may be
11 necessary, to meet unanticipated needs for water planning funds and to
12 provide nonreimbursable funding assistance to local entities related to
13 water planning.

14 (2) The moneys appropriated in subsection (1) of this section shall
15 remain available for the designated purposes until they are fully
16 expended.

17 **SECTION 4. Continuation of the alternative agriculture water**
18 **transfer sustainability grant program - appropriation.** (1) In addition
19 to any other appropriation, there is hereby appropriated, out of any
20 moneys in the Colorado water conservation board construction fund not
21 otherwise appropriated, to the department of natural resources, for
22 allocation to the Colorado water conservation board, for the fiscal year
23 beginning July 1, 2009, the sum of one million five hundred thousand
24 dollars (\$1,500,000), or so much thereof as may be necessary, for the
25 board to continue to develop and implement a statewide competitive grant
26 program to advance various agricultural transfer methods as alternatives
27 to permanent agricultural dry-up, including interruptible water supply

1 agreements, long-term agricultural land fallowing, water banks, reduced
2 consumptive use through efficiency or cropping while maintaining
3 historic return flows, and purchase by end users with leasebacks under
4 defined conditions. Projects and programs in all drainage basins are
5 eligible for funding.

6 (2) The moneys appropriated in subsection (1) of this section shall
7 remain available for the designated purposes until they are fully
8 expended.

9 **SECTION 5. Water adaptation partnership projects -**
10 **appropriation.** (1) In addition to any other appropriation, there is
11 hereby appropriated, out of any moneys in the Colorado water
12 conservation board construction fund not otherwise appropriated, to the
13 department of natural resources, for allocation to the Colorado water
14 conservation board, for the fiscal year beginning July 1, 2009, the sum of
15 five hundred thousand dollars (\$500,000), or so much thereof as may be
16 necessary, to develop and implement a long-term plan addressing the
17 impacts of climate variability on water supplies throughout the state. The
18 plan will be implemented by identifying long-term climate trends,
19 enhancing the climate observation network, updating forecasting
20 methodologies, detecting bias in climate change models, adapting climate
21 change information for use in decision support systems, utilizing federal
22 drought planning requirements, and calculating specific impacts to water
23 rights, including instream flow water rights.

24 (2) The moneys appropriated in subsection (1) of this section shall
25 remain available for the designated purposes until they are fully
26 expended.

27 **SECTION 6. Continuation of the weather modification**

1 **program - appropriation.** (1) In addition to any other appropriation,
2 there is hereby appropriated, out of any moneys in the Colorado water
3 conservation board construction fund not otherwise appropriated, to the
4 department of natural resources, for allocation to the Colorado water
5 conservation board, for the fiscal year beginning July 1, 2009, the sum of
6 one hundred seventy-five thousand dollars (\$175,000), or so much thereof
7 as may be necessary, for the board to continue to assist water
8 conservation districts, water conservancy districts, and other water
9 providers with the development of cloud seeding programs that provide
10 benefits to recreation, streams, and reservoirs through snowpack
11 enhancement.

12 (2) The amounts appropriated in this section are in addition to
13 amounts appropriated previously for the weather modification program.
14 The moneys appropriated in subsection (1) of this section shall remain
15 available for the designated purposes until they are fully expended.

16 **SECTION 7. National oceanic and atmospheric**
17 **administration statewide precipitation atlas update - appropriation.**

18 (1) In addition to any other appropriation, there is hereby appropriated,
19 out of any moneys in the Colorado water conservation board construction
20 fund not otherwise appropriated, to the department of natural resources,
21 for allocation to the Colorado water conservation board, for the fiscal year
22 beginning July 1, 2009, the sum of three hundred thousand dollars
23 (\$300,000), or so much thereof as may be necessary, to participate with
24 the national oceanic and atmospheric administration in the update of the
25 rainfall precipitation data atlas <{*"precipitation frequency atlas"?*}> for
26 the state of Colorado to be used in hydraulic analysis and delineation of
27 floodplains as well as land use decisions and local drainage regulations.

1 (2) The moneys appropriated in subsection (1) of this section shall
2 remain available for the designated purposes until the project is
3 completed.

4 **SECTION 8. Dust-on-snow studies - appropriation.** (1) In
5 addition to any other appropriation, there is hereby appropriated, out of
6 any moneys in the Colorado water conservation board construction fund
7 not otherwise appropriated, to the department of natural resources, for
8 allocation to the Colorado water conservation board, for the fiscal year
9 beginning July 1, 2009, the sum of thirty thousand dollars (\$30,000), or
10 so much thereof as may be necessary, to participate with the center for
11 snow and avalanche studies in a study of the effects of dust-on-snow on
12 snowmelt timing, intensity, and duration in order to more accurately
13 predict the snowmelt process and stream runoff patterns.

14 (2) The moneys appropriated in subsection (1) of this section shall
15 remain available for the designated purposes until the project is
16 completed.

17 **SECTION 9. Continuation of the Colorado floodplain map**
18 **modernization program - appropriation.** (1) In addition to any other
19 appropriation, there is hereby appropriated, out of any moneys in the
20 Colorado water conservation board construction fund not otherwise
21 appropriated, to the department of natural resources, for allocation to the
22 Colorado water conservation board, for the fiscal year beginning July 1,
23 2009, the sum of five hundred thousand dollars (\$500,000), or so much
24 thereof as may be necessary to restore the unencumbered balance in the
25 previously appropriated map modernization account *<this account*
26 *doesn't seem to exist>* to five hundred thousand dollars (\$500,000), for
27 the board to continue to assist with the preparation of revised and

1 improved floodplain studies and maps for communities throughout
2 Colorado and participate in federally sponsored floodplain map
3 modernization activities.

4 (2) The amounts appropriated in this section are in addition to
5 amounts appropriated previously for the Colorado floodplain map
6 modernization program. The moneys appropriated in subsection (1) of
7 this section shall remain available for the designated purposes until the
8 project is completed.

9 **SECTION 10. Continuation of the watershed restoration**
10 **program - appropriation.** (1) In addition to any other appropriation,
11 there is hereby appropriated, out of any moneys in the Colorado water
12 conservation board construction fund not otherwise appropriated, to the
13 department of natural resources, for allocation to the Colorado water
14 conservation board, for the fiscal year beginning July 1, 2009, the sum of
15 two hundred fifty thousand dollars (\$250,000), or so much thereof as may
16 be necessary, for the board to continue to provide planning and
17 engineering studies, including implementation measures, to address
18 technical needs for watershed restoration and flood mitigation projects
19 throughout the state.

20 (2) The moneys appropriated in subsection (1) of this section shall
21 remain available for the designated purposes until they are fully
22 expended.

23 **SECTION 11. Continuation of the floodplain technical**
24 **services - appropriation.** (1) In addition to any other appropriation,
25 there is hereby appropriated, out of any moneys in the Colorado water
26 conservation board construction fund not otherwise appropriated, to the
27 department of natural resources, for allocation to the Colorado water

1 conservation board, for the fiscal year beginning July 1, 2009, the sum of
2 one hundred twenty-five thousand dollars (\$125,000), or so much thereof
3 as may be necessary, for the board to continue to provide floodplain
4 management technical services assisting local governments with high
5 priority flood control study, planning, engineering, and preconstruction
6 activities.

7 (2) The moneys appropriated in subsection (1) of this section shall
8 remain available for the designated purposes until they are fully
9 expended.

10 **SECTION 12. Restoration of flood response fund balance.**

11 The state treasurer shall transfer a total of three hundred thousand dollars
12 (\$300,000), or so much thereof as may be necessary, from the unreserved
13 cash in the Colorado water conservation board construction fund to the
14 flood response fund created in section 37-60-123.2, Colorado Revised
15 Statutes, in order to restore the unencumbered balance in the flood
16 response fund to three hundred thousand dollars (\$300,000).

17 **SECTION 13. Water resource information center and data**
18 **harvesting initiative - appropriation.** (1) In addition to any other
19 appropriation, there is hereby appropriated, out of any moneys in the
20 Colorado water conservation board construction fund not otherwise
21 appropriated, to the department of natural resources, for allocation to the
22 Colorado water conservation board, for the fiscal year beginning July 1,
23 2009, the sum of five hundred fifty thousand dollars (\$550,000), or so
24 much thereof as may be necessary, to continue the operation of a
25 consolidated water resources information center and to collaborate with
26 Colorado state university by combining document management systems
27 to provide statewide on-line access to imaged water-related documents

1 including publications, maps, audio files, reports, water right decrees,
2 historical documents and collections, flood insurance studies, and other
3 water information.

4 (2) The moneys appropriated in subsection (1) of this section shall
5 remain available for the designated purposes until they are fully
6 expended.

7 **SECTION 14. Modflow enhancement for Colorado decision**
8 **supports systems - appropriation.** (1) In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 Colorado water conservation board construction fund not otherwise
11 appropriated, to the department of natural resources, for allocation to the
12 Colorado water conservation board, for the fiscal year beginning July 1,
13 2009, the sum of fifty thousand dollars (\$50,000), or so much thereof as
14 may be necessary, to participate with the United States geological survey
15 in the enhancement of modflow, a USGS ground water model, to make
16 the ground water modeling process more efficient and river decision
17 support systems more accurate and reliable throughout the state.

18 (2) The moneys appropriated in subsection (1) of this section shall
19 remain available for the designated purposes until the project is
20 completed.

21 **SECTION 15. Continuation of the South Platte decision**
22 **support system - appropriation.** (1) In addition to any other
23 appropriation, there is hereby appropriated, out of any moneys in the
24 Colorado water conservation board construction fund not otherwise
25 appropriated, to the department of natural resources, for allocation to the
26 Colorado water conservation board, for the fiscal year beginning July 1,
27 2009, the sum of one hundred fifty thousand dollars (\$150,000), or so

1 much thereof as may be necessary, for the board to continue development
2 of the South Platte decision support system.

3 (2) The amounts appropriated in this section are in addition to
4 amounts appropriated previously for the South Platte decision support
5 system. The moneys appropriated in subsection (1) of this section shall
6 remain available for the designated purposes until the project is
7 completed.

8 **SECTION 16. Continuation of the Colorado river water**
9 **availability study - Phase 2 - appropriation.** (1) In addition to any
10 other appropriation, there is hereby appropriated, out of any moneys in the
11 Colorado water conservation board construction fund not otherwise
12 appropriated, to the department of natural resources, for allocation to the
13 Colorado water conservation board, for the fiscal year beginning July 1,
14 2009, the sum of one million dollars (\$1,000,000), or so much thereof as
15 may be necessary, for the board to continue the model development phase
16 of the Colorado water needs and alternatives analysis, otherwise known
17 as the Colorado river water availability study, authorized in Section 15 of
18 Senate Bill 07-122. The board shall continue to work in full consultation
19 with, and the active involvement of, the basin roundtables and shall
20 continue to consider current and potential future in-basin consumptive
21 and nonconsumptive needs.

22 (2) The amounts appropriated in this section are in addition to
23 amounts appropriated previously for the Colorado water needs and
24 alternative analysis. The moneys appropriated in subsection (1) of this
25 section shall remain available for the designated purposes until the project
26 is completed.

27 **SECTION 17. Arkansas river surface water rules technical**

1 **and financial assistance - appropriation.** (1) In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys in the
3 Colorado water conservation board construction fund not otherwise
4 appropriated, to the department of natural resources, for allocation to the
5 Colorado water conservation board, for the fiscal year beginning July 1,
6 2009, the sum of two hundred fifty thousand dollars (\$250,000), or so
7 much thereof as may be necessary, to provide technical and financial
8 assistance in addressing the effects of increasing agricultural water use
9 efficiency in the Arkansas river basin, as established by the Colorado
10 state engineer's promulgated rules, and formulate and implement
11 cost-effective means to comply with the rules and specific measures to
12 prevent potential compact violations.

13 (2) The moneys appropriated in subsection (1) of this section shall
14 remain available for the designated purposes until the project is
15 completed.

16 **SECTION 18. Restoration of litigation fund cash balance.** The
17 state treasurer shall transfer a total of two million two hundred thousand
18 dollars (\$2,200,000), or so much thereof as may be necessary, from the
19 unreserved cash in the Colorado water conservation board construction
20 fund to the litigation fund created in section 37-60-121 (2.5), Colorado
21 Revised Statutes, in order to restore the unencumbered balance in the
22 litigation fund to four million dollars (\$4,000,000).

23 **SECTION 19.** Part 1 of article 60 of title 37, Colorado Revised
24 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
25 read:

26 **37-60-122.3. Wild and scenic rivers fund - created.** THERE IS
27 HEREBY CREATED IN THE STATE TREASURY THE WILD AND SCENIC RIVERS

1 FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE STATE
2 TREASURER SHALL TRANSFER FOUR HUNDRED THOUSAND DOLLARS FROM
3 PREVIOUSLY UNAPPROPRIATED COLORADO WATER CONSERVATION BOARD
4 CONSTRUCTION FUND MONEYS TO THE FUND. THE MONEYS IN THE FUND
5 ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD TO WORK WITH
6 STAKEHOLDERS WITHIN THE STATE OF COLORADO TO <{WHAT IS MEANT
7 HERE?}> EXPLORE ALTERNATIVES THAT WOULD FALL WITHIN THE WILD
8 AND SCENIC <{"RIVERS"?}> DESIGNATION PROCESS <{"UNDER THE
9 FEDERAL WILD AND SCENIC RIVERS ACT, 16 U.S.C. SECTION 1271 ET
10 SEQ."}> . IN ADDITION TO ANY REMAINING BALANCE IN THE FUND AT
11 THE END OF ANY FISCAL YEAR, THE BOARD IS HEREBY AUTHORIZED TO
12 ANNUALLY PROVIDE, FROM THE COLORADO WATER CONSERVATION BOARD
13 CONSTRUCTION FUND, UP TO FOUR HUNDRED THOUSAND DOLLARS IN
14 ORDER TO RESTORE THE UNENCUMBERED BALANCE IN THE FUND UP TO
15 FOUR HUNDRED THOUSAND DOLLARS. ALL INTEREST DERIVED FROM THE
16 INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE
17 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. THE
18 BOARD SHALL REVIEW THE PURPOSES <{ISN'T THERE ONLY ONE
19 PURPOSE?}> OF THE FUND ANNUALLY AND IS HEREBY AUTHORIZED TO
20 CEASE PROVIDING MONEYS IN THE FOLLOWING YEAR IF, IN ITS DISCRETION,
21 THE BOARD DETERMINES THAT THE PURPOSES FOR WHICH THE FUND WAS
22 ESTABLISHED HAVE CEASED. THE BOARD MAY SET TERMS AND
23 CONDITIONS AS IT DEEMS APPROPRIATE CONCERNING THE ANNUAL
24 EXPENDITURES OF MONEYS FROM THE FUND.

25 **SECTION 20.** Section 2 (1) of chapter 352, Session Laws of
26 Colorado 2007, is amended to read:

27 Section 2. **Water project loan authorizations from the**

1 **severance tax trust fund perpetual base account.** (1) Pursuant to
2 section 39-29-109 ~~(1) (a) (1)~~ (2) (a), Colorado Revised Statutes, the
3 Colorado water conservation board is hereby authorized to loan moneys
4 from the severance tax trust fund perpetual base account to enable the
5 construction of the following water resources projects with the following
6 priority:

7	8	9	10	11	12	13	14	15	16
	Priority	Borrow - Project							
	(a)	Southeastern Colorado Water							
		Conservancy District Water							
		Activity Enterprise* Arkansas							
		Valley Conduit Project						\$60,600,000	
	(b)	Penrose Water District Water							
		Activity Enterprise Water Rights							
		Purchase and Raw Water Pipeline						<u>\$8,844,570</u>	
		Total						\$69,444,570	

17
18 * The moneys appropriated for this project shall remain available for the
19 designated purposes until the project is completed; except that, if the
20 project sponsor does not enter into a loan contract with the Colorado
21 water conservation board within ~~two~~ FOUR years after the effective date
22 of this section, then the moneys appropriated in this subsection (1) shall
23 no longer be available for the designated purposes and shall become
24 available for other lawful uses.

25 **SECTION 21. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.

Colorado Water Conservation Board
January 27-28, 2009 Meeting
Construction Fund
Financial Projections

Projected Cash for New Projects

FY 2008-09

Unreserved Cash at Beginning of Year
 Construction Fund Revenue Projected From Cash Sources
 Recommended Project De-Authorizations in 2009

\$ 13,282,580 Unreserved Balance on 7-1-2008
 \$ 30,000,000 Loan Principal/Interest + Mineral Lease + Treasury Interest
 \$ 498,000 Silt WCD

Total Projected Cash from Construction Fund

\$ 43,780,580

Total Amount Transferred to the General Fund by OSPB

\$ 10,000,000 *****

Total Unreserved Cash Available for New Projects and Other Expenses

\$ 33,780,580

Projected Expenses

Projected Administrative and Special Purpose Expenses (Long Bill)

\$ 6,000,000 Long Bill - HB 08-1375

Previously Approved Project Loans in FY09

\$ -

Projected Additional Project Loans through FY09

\$ 10,000,000

Recommended Modifications to Previous Project Authorizations
 FY09

\$ 480,300

Recommended New Construction Project Loans
 November 2008

\$ -

Recommended New Construction Project Loans
 January 2009

\$ 843,350

Recommended Non-Reimbursable Expenses
 November 2008 - Estimate

\$ 8,530,000

In-Stream Flow Acquisitions in FY 09

\$ 1,000,000

Total Projected Expenses to Construction Fund

\$ 26,853,650

Projected Construction Fund Balance

Must be at least \$6,000,000 to cover FY10 Operating Expenses

\$ 6,926,930 Projected Unreserved Balance on 7-1-2009
 =====

Colorado Water Conservation Board
January 27-28, 2009 Meeting
Severance Tax Trust Fund - Perpetual Base Account
Financial Projections

Projected Cash for New Projects

FY 2008-09

Unreserved Cash at Beginning of Year	\$ 18,058,960	Unreserved Balance on 7-1-2008
STTF Perpetual Base Account Severance Tax Revenue (FY 08-09 Revenue)	\$ 52,000,000	25% Share of Severance Tax Revenue
STTF Perpetual Base Account Cash Sources (FY 08-09 Revenue)	\$ 10,000,000	Principal + Interest on Loans + Interest on Fund Balance
Project De-Authorizations	\$ -	

Total Projected Cash from STTF Perpetual Base Account	\$ 80,058,960	
Total Amount Transferred to the General Fund by OSPB	\$ 20,000,000	*****
Total Unreserved Cash Available for New Projects and Other Expenses	\$ 60,058,960	

Projected Expenses

Previously Approved Project Loans in FY09	\$ 3,750,000	
Projected Additional Project Loans through FY09	\$ 18,000,000	Includes S. Metro \$5.6 mill request
Recommended Modifications to Previous Project Authorizations FY09	\$ 3,400,000	
Recommended New Construction Project Loans November 2008	\$ 17,500,000	
Proposed New Construction Project Loans January 2009	\$ 1,010,000	
Agricultural Emergency Drought Response Grant Program	\$ 1,000,000	
Total Projected Expenses to Severance Tax Trust Fund Perpetual Base Account	\$ 44,660,000	

Projected STTF Perpetual Base Account Balance

\$ 15,398,960 Projected Unreserved Balance on 7-1-2009
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