
HOUSE BILL 2107

State of Washington

55th Legislature

1997 Regular Session

By Representatives Costa, Cooper, Robertson, Conway, Sterk, Scott, Keiser, Gardner, Linville, Morris, Quall, Delvin, Blalock and D. Schmidt

Read first time 02/20/97. Referred to Committee on Appropriations.

1 AN ACT Relating to retirement benefits for paramedics and fire
2 fighters; amending RCW 41.40.094; reenacting and amending RCW
3 41.26.030; and adding a new section to chapter 41.40 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
6 each reenacted and amended to read as follows:

7 As used in this chapter, unless a different meaning is plainly
8 required by the context:

9 (1) "Retirement system" means the "Washington law enforcement
10 officers' and fire fighters' retirement system" provided herein.

11 (2)(a) "Employer" for plan I members, means the legislative
12 authority of any city, town, county, or district or the elected
13 officials of any municipal corporation that employs any law enforcement
14 officer and/or fire fighter, any authorized association of such
15 municipalities, and, except for the purposes of RCW 41.26.150, any
16 labor guild, association, or organization, which represents the fire
17 fighters or law enforcement officers of at least seven cities of over
18 20,000 population and the membership of each local lodge or division of

1 which is composed of at least sixty percent law enforcement officers or
2 fire fighters as defined in this chapter.

3 (b) "Employer" for plan II members, means the following entities to
4 the extent that the entity employs (~~any law enforcement officer and/or~~
5 ~~fire fighter~~) a person who is eligible to be a member under subsection
6 (8) of this section:

7 (i) The legislative authority of any city, town, county, (~~or~~)
8 district, or municipal corporation;

9 (~~The elected officials of any municipal corporation;~~

10 ~~iii))~~ The governing body of any (~~other~~) general authority law
11 enforcement agency; (~~or~~

12 ~~iv))~~ iii) A four-year institution of higher education having a
13 fully operational fire department as of January 1, 1996; or

14 iv) Any county health department.

15 (3) "Law enforcement officer" beginning January 1, 1994, means any
16 person who is commissioned and employed by an employer on a full time,
17 fully compensated basis to enforce the criminal laws of the state of
18 Washington generally, with the following qualifications:

19 (a) No person who is serving in a position that is basically
20 clerical or secretarial in nature, and who is not commissioned shall be
21 considered a law enforcement officer;

22 (b) Only those deputy sheriffs, including those serving under a
23 different title pursuant to county charter, who have successfully
24 completed a civil service examination for deputy sheriff or the
25 equivalent position, where a different title is used, and those persons
26 serving in unclassified positions authorized by RCW 41.14.070 except a
27 private secretary will be considered law enforcement officers;

28 (c) Only such full time commissioned law enforcement personnel as
29 have been appointed to offices, positions, or ranks in the police
30 department which have been specifically created or otherwise expressly
31 provided for and designated by city charter provision or by ordinance
32 enacted by the legislative body of the city shall be considered city
33 police officers;

34 (d) The term "law enforcement officer" also includes the executive
35 secretary of a labor guild, association or organization (which is an
36 employer under RCW 41.26.030(2)) if that individual has five years
37 previous membership in the retirement system established in chapter
38 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
39 plan II members; and

1 (e) The term "law enforcement officer" also includes a person
2 employed on or after January 1, 1993, as a public safety officer or
3 director of public safety, so long as the job duties substantially
4 involve only either police or fire duties, or both, and no other duties
5 in a city or town with a population of less than ten thousand. The
6 provisions of this subsection (3)(e) shall not apply to any public
7 safety officer or director of public safety who is receiving a
8 retirement allowance under this chapter as of May 12, 1993.

9 (4) "Fire fighter" means:

10 (a) Any person who is serving on a full time, fully compensated
11 basis as a member of a fire department of an employer and who is
12 serving in a position which requires passing a civil service
13 examination for fire fighter, and who is actively employed as such;

14 (b) Anyone who is actively employed as a full time fire fighter
15 where the fire department does not have a civil service examination;

16 (c) Supervisory fire fighter personnel;

17 (d) Any full time executive secretary of an association of fire
18 protection districts authorized under RCW 52.12.031. The provisions of
19 this subsection (4)(d) shall not apply to plan II members;

20 (e) The executive secretary of a labor guild, association or
21 organization (which is an employer under RCW 41.26.030(2) as now or
22 hereafter amended), if such individual has five years previous
23 membership in a retirement system established in chapter 41.16 or 41.18
24 RCW. The provisions of this subsection (4)(e) shall not apply to plan
25 II members;

26 (f) Any person who is serving on a full time, fully compensated
27 basis for an employer, as a fire dispatcher, in a department in which,
28 on March 1, 1970, a dispatcher was required to have passed a civil
29 service examination for fire fighter; and

30 (g) Any person who on March 1, 1970, was employed on a full time,
31 fully compensated basis by an employer, and who on May 21, 1971, was
32 making retirement contributions under the provisions of chapter 41.16
33 or 41.18 RCW.

34 (5) "Department" means the department of retirement systems created
35 in chapter 41.50 RCW.

36 (6) "Surviving spouse" means the surviving widow or widower of a
37 member. "Surviving spouse" shall not include the divorced spouse of a
38 member except as provided in RCW 41.26.162.

1 (7)(a) "Child" or "children" means an unmarried person who is under
2 the age of eighteen or mentally or physically handicapped as determined
3 by the department, except a handicapped person in the full time care of
4 a state institution, who is:

5 (i) A natural born child;

6 (ii) A stepchild where that relationship was in existence prior to
7 the date benefits are payable under this chapter;

8 (iii) A posthumous child;

9 (iv) A child legally adopted or made a legal ward of a member prior
10 to the date benefits are payable under this chapter; or

11 (v) An illegitimate child legitimized prior to the date any
12 benefits are payable under this chapter.

13 (b) A person shall also be deemed to be a child up to and including
14 the age of twenty years and eleven months while attending any high
15 school, college, or vocational or other educational institution
16 accredited, licensed, or approved by the state, in which it is located,
17 including the summer vacation months and all other normal and regular
18 vacation periods at the particular educational institution after which
19 the child returns to school.

20 (8) "Member" or "employee" means ~~((any))~~:

21 (a) A fire fighter, law enforcement officer, or other person ~~((as~~
22 ~~would apply))~~ qualified under subsection~~((s))~~ (3) or (4) of this
23 section whose membership is transferred to the Washington law
24 enforcement officers' and fire fighters' retirement system on or after
25 March 1, 1970~~((, and every))~~;

26 (b) Law enforcement officers and fire fighters who ~~((is))~~ are
27 employed in that capacity on or after ~~((such date))~~ March 1, 1970;

28 (c) A paramedic whose employment in that capacity began after
29 January 1, 1997, or a paramedic who elects to become a member in
30 accordance with section 2 of this act. "Paramedic" means any person
31 who is serving on a full-time, fully compensated basis as a paramedic
32 for a county health department. "Paramedic" includes an emergency
33 medical service provider known as an emergency medical technician; and

34 (d) A trained airport fire fighter whose employment in that
35 capacity began after January 1, 1997, or a trained airport fire fighter
36 who elects to become a member in accordance with section 2 of this act.
37 A trained airport fire fighter means any person who has specific fire
38 fighter training and serves as a fire fighter at an international
39 airport.

1 (9) "Retirement fund" means the "Washington law enforcement
2 officers' and fire fighters' retirement system fund" as provided for
3 herein.

4 ~~(10) ("Employee" means any law enforcement officer or fire fighter
5 as defined in subsections (3) and (4) of this section.~~

6 ~~(11))~~(a) "Beneficiary" for plan I members, means any person in
7 receipt of a retirement allowance, disability allowance, death benefit,
8 or any other benefit described herein.

9 (b) "Beneficiary" for plan II members, means any person in receipt
10 of a retirement allowance or other benefit provided by this chapter
11 resulting from service rendered to an employer by another person.

12 ~~((12))~~ (11)(a) "Final average salary" for plan I members, means
13 (i) for a member holding the same position or rank for a minimum of
14 twelve months preceding the date of retirement, the basic salary
15 attached to such same position or rank at time of retirement; (ii) for
16 any other member, including a civil service member who has not served
17 a minimum of twelve months in the same position or rank preceding the
18 date of retirement, the average of the greatest basic salaries payable
19 to such member during any consecutive twenty-four month period within
20 such member's last ten years of service for which service credit is
21 allowed, computed by dividing the total basic salaries payable to such
22 member during the selected twenty-four month period by twenty-four;
23 (iii) in the case of disability of any member, the basic salary payable
24 to such member at the time of disability retirement; (iv) in the case
25 of a member who hereafter vests pursuant to RCW 41.26.090, the basic
26 salary payable to such member at the time of vesting.

27 (b) "Final average salary" for plan II members, means the monthly
28 average of the member's basic salary for the highest consecutive sixty
29 service credit months of service prior to such member's retirement,
30 termination, or death. Periods constituting authorized unpaid leaves
31 of absence may not be used in the calculation of final average salary.

32 ~~((13))~~ (12)(a) "Basic salary" for plan I members, means the basic
33 monthly rate of salary or wages, including longevity pay but not
34 including overtime earnings or special salary or wages, upon which
35 pension or retirement benefits will be computed and upon which employer
36 contributions and salary deductions will be based.

37 (b) "Basic salary" for plan II members, means salaries or wages
38 earned by a member during a payroll period for personal services,
39 including overtime payments, and shall include wages and salaries

1 deferred under provisions established pursuant to sections 403(b),
2 414(h), and 457 of the United States Internal Revenue Code, but shall
3 exclude lump sum payments for deferred annual sick leave, unused
4 accumulated vacation, unused accumulated annual leave, or any form of
5 severance pay. In any year in which a member serves in the legislature
6 the member shall have the option of having such member's basic salary
7 be the greater of:

8 (i) The basic salary the member would have received had such member
9 not served in the legislature; or

10 (ii) Such member's actual basic salary received for nonlegislative
11 public employment and legislative service combined. Any additional
12 contributions to the retirement system required because basic salary
13 under (b)(i) of this subsection is greater than basic salary under
14 (b)(ii) of this subsection shall be paid by the member for both member
15 and employer contributions.

16 (~~(14)~~) (13)(a) "Service" for plan I members, means all periods of
17 employment for an employer as a fire fighter or law enforcement
18 officer, for which compensation is paid, together with periods of
19 suspension not exceeding thirty days in duration. For the purposes of
20 this chapter service shall also include service in the armed forces of
21 the United States as provided in RCW 41.26.190. Credit shall be
22 allowed for all service credit months of service rendered by a member
23 from and after the member's initial commencement of employment as a
24 fire fighter or law enforcement officer, during which the member worked
25 for seventy or more hours, or was on disability leave or disability
26 retirement. Only service credit months of service shall be counted in
27 the computation of any retirement allowance or other benefit provided
28 for in this chapter.

29 (i) For members retiring after May 21, 1971 who were employed under
30 the coverage of a prior pension act before March 1, 1970, "service"
31 shall also include (A) such military service not exceeding five years
32 as was creditable to the member as of March 1, 1970, under the member's
33 particular prior pension act, and (B) such other periods of service as
34 were then creditable to a particular member under the provisions of RCW
35 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
36 be allowed for any service rendered prior to March 1, 1970, where the
37 member at the time of rendition of such service was employed in a
38 position covered by a prior pension act, unless such service, at the

1 time credit is claimed therefor, is also creditable under the
2 provisions of such prior act.

3 (ii) A member who is employed by two employers at the same time
4 shall only be credited with service to one such employer for any month
5 during which the member rendered such dual service.

6 (b) "Service" for plan II members, means periods of employment by
7 a member for one or more employers for which basic salary is earned for
8 ninety or more hours per calendar month which shall constitute a
9 service credit month. Periods of employment by a member for one or
10 more employers for which basic salary is earned for at least seventy
11 hours but less than ninety hours per calendar month shall constitute
12 one-half service credit month. Periods of employment by a member for
13 one or more employers for which basic salary is earned for less than
14 seventy hours shall constitute a one-quarter service credit month.

15 Members of the retirement system who are elected or appointed to a
16 state elective position may elect to continue to be members of this
17 retirement system.

18 Service credit years of service shall be determined by dividing the
19 total number of service credit months of service by twelve. Any
20 fraction of a service credit year of service as so determined shall be
21 taken into account in the computation of such retirement allowance or
22 benefits.

23 If a member receives basic salary from two or more employers during
24 any calendar month, the individual shall receive one service credit
25 month's service credit during any calendar month in which multiple
26 service for ninety or more hours is rendered; or one-half service
27 credit month's service credit during any calendar month in which
28 multiple service for at least seventy hours but less than ninety hours
29 is rendered; or one-quarter service credit month during any calendar
30 month in which multiple service for less than seventy hours is
31 rendered.

32 (~~(15)~~) (14) "Accumulated contributions" means the employee's
33 contributions made by a member, including any amount paid under RCW
34 41.50.165(2), plus accrued interest credited thereon.

35 (~~(16)~~) (15) "Actuarial reserve" means a method of financing a
36 pension or retirement plan wherein reserves are accumulated as the
37 liabilities for benefit payments are incurred in order that sufficient
38 funds will be available on the date of retirement of each member to pay
39 the member's future benefits during the period of retirement.

1 (~~(17)~~) (16) "Actuarial valuation" means a mathematical
2 determination of the financial condition of a retirement plan. It
3 includes the computation of the present monetary value of benefits
4 payable to present members, and the present monetary value of future
5 employer and employee contributions, giving effect to mortality among
6 active and retired members and also to the rates of disability,
7 retirement, withdrawal from service, salary and interest earned on
8 investments.

9 (~~(18)~~) (17) "Disability board" for plan I members means either
10 the county disability board or the city disability board established in
11 RCW 41.26.110.

12 (~~(19)~~) (18) "Disability leave" means the period of six months or
13 any portion thereof during which a member is on leave at an allowance
14 equal to the member's full salary prior to the commencement of
15 disability retirement. The definition contained in this subsection
16 shall apply only to plan I members.

17 (~~(20)~~) (19) "Disability retirement" for plan I members, means the
18 period following termination of a member's disability leave, during
19 which the member is in receipt of a disability retirement allowance.

20 (~~(21)~~) (20) "Position" means the employment held at any
21 particular time, which may or may not be the same as civil service
22 rank.

23 (~~(22)~~) (21) "Medical services" for plan I members, shall include
24 the following as minimum services to be provided. Reasonable charges
25 for these services shall be paid in accordance with RCW 41.26.150.

26 (a) Hospital expenses: These are the charges made by a hospital,
27 in its own behalf, for

28 (i) Board and room not to exceed semiprivate room rate unless
29 private room is required by the attending physician due to the
30 condition of the patient.

31 (ii) Necessary hospital services, other than board and room,
32 furnished by the hospital.

33 (b) Other medical expenses: The following charges are considered
34 "other medical expenses", provided that they have not been considered
35 as "hospital expenses".

36 (i) The fees of the following:

37 (A) A physician or surgeon licensed under the provisions of chapter
38 18.71 RCW;

1 (B) An osteopathic physician and surgeon licensed under the
2 provisions of chapter 18.57 RCW;

3 (C) A chiropractor licensed under the provisions of chapter 18.25
4 RCW.

5 (ii) The charges of a registered graduate nurse other than a nurse
6 who ordinarily resides in the member's home, or is a member of the
7 family of either the member or the member's spouse.

8 (iii) The charges for the following medical services and supplies:
9 (A) Drugs and medicines upon a physician's prescription;
10 (B) Diagnostic x-ray and laboratory examinations;
11 (C) X-ray, radium, and radioactive isotopes therapy;
12 (D) Anesthesia and oxygen;
13 (E) Rental of iron lung and other durable medical and surgical
14 equipment;
15 (F) Artificial limbs and eyes, and casts, splints, and trusses;
16 (G) Professional ambulance service when used to transport the
17 member to or from a hospital when injured by an accident or stricken by
18 a disease;
19 (H) Dental charges incurred by a member who sustains an accidental
20 injury to his or her teeth and who commences treatment by a legally
21 licensed dentist within ninety days after the accident;
22 (I) Nursing home confinement or hospital extended care facility;
23 (J) Physical therapy by a registered physical therapist;
24 (K) Blood transfusions, including the cost of blood and blood
25 plasma not replaced by voluntary donors;
26 (L) An optometrist licensed under the provisions of chapter 18.53
27 RCW.

28 (~~(23)~~) (22) "Regular interest" means such rate as the director
29 may determine.

30 (~~(24)~~) (23) "Retiree" for persons who establish membership in the
31 retirement system on or after October 1, 1977, means any member in
32 receipt of a retirement allowance or other benefit provided by this
33 chapter resulting from service rendered to an employer by such member.

34 (~~(25)~~) (24) "Director" means the director of the department.

35 (~~(26)~~) (25) "State actuary" or "actuary" means the person
36 appointed pursuant to RCW 44.44.010(2).

37 (~~(27)~~) (26) "State elective position" means any position held by
38 any person elected or appointed to state-wide office or elected or
39 appointed as a member of the legislature.

1 (~~(28)~~) (27) "Plan I" means the law enforcement officers' and fire
2 fighters' retirement system, plan I providing the benefits and funding
3 provisions covering persons who first became members of the system
4 prior to October 1, 1977.

5 (~~(29)~~) (28) "Plan II" means the law enforcement officers' and
6 fire fighters' retirement system, plan II providing the benefits and
7 funding provisions covering persons who first became members of the
8 system on and after October 1, 1977.

9 (~~(30)~~) (29) "Service credit year" means an accumulation of months
10 of service credit which is equal to one when divided by twelve.

11 (~~(31)~~) (30) "Service credit month" means a full service credit
12 month or an accumulation of partial service credit months that are
13 equal to one.

14 (~~(32)~~) (31) "General authority law enforcement agency" means any
15 agency, department, or division of a municipal corporation, political
16 subdivision, or other unit of local government of this state, and any
17 agency, department, or division of state government, having as its
18 primary function the detection and apprehension of persons committing
19 infractions or violating the traffic or criminal laws in general, but
20 not including the Washington state patrol. Such an agency, department,
21 or division is distinguished from a limited authority law enforcement
22 agency having as one of its functions the apprehension or detection of
23 persons committing infractions or violating the traffic or criminal
24 laws relating to limited subject areas, including but not limited to,
25 the state departments of natural resources, fish and wildlife, and
26 social and health services, the state gambling commission, the state
27 lottery commission, the state parks and recreation commission, the
28 state utilities and transportation commission, the state liquor control
29 board, and the state department of corrections.

30 NEW SECTION. Sec. 2. A new section is added to chapter 41.40 RCW
31 to read as follows:

32 (1) An employee who was a member of the retirement system on or
33 before January 1, 1997, and on the effective date of this act, is
34 employed as a paramedic for a county health department or as a trained
35 airport fire fighter has the following options:

36 (a) The employee may remain a member of the retirement system; or

37 (b) The employee may make an election, filed in writing with the
38 department of retirement systems no later than January 1, 1998, to

1 transfer to the law enforcement officers' and fire fighters' retirement
2 system plan II as defined in RCW 41.26.030.

3 (2)(a) An employee who transferred membership under subsection
4 (1)(b) of this section may choose to transfer service credit as a
5 paramedic or trained airport fire fighter previously earned under the
6 retirement system, to the law enforcement officers' and fire fighters'
7 retirement system plan II, by filing a written election with the
8 department no later than January 1, 1998, and making the payments
9 required by this subsection.

10 (b) A paramedic or trained airport fire fighter who chooses to
11 transfer service credit under this subsection shall pay, for the
12 applicable period of service, the difference between the contributions
13 the employee paid to the retirement system, and the contributions which
14 would have been paid by the employee had the employee been a member of
15 the law enforcement officers' and fire fighters' retirement system,
16 plus interest as determined by the director. This payment must be made
17 no later than five years from the date in subsection (1)(b) of this
18 section or the date of retirement, whichever comes first.

19 (c) Upon completion of the payment required in (b) of this
20 subsection, the employee shall transfer from the retirement system to
21 the law enforcement officers' and fire fighters' retirement system plan
22 II: (i) All of the employee's applicable accumulated contributions and
23 employer contributions attributed to such employee; and (ii) all
24 applicable months of service, as defined in RCW 41.26.030(13)(b),
25 credited to the employee under this chapter for service as a paramedic
26 or trained airport fire fighter, as though such service was rendered as
27 a member of the law enforcement officers' and fire fighters' retirement
28 system.

29 (d) Upon transfer of service credit and contributions under this
30 subsection, the employee is permanently excluded from membership in the
31 retirement system for all service as a paramedic or trained airport
32 fire fighter.

33 (e) Upon a member's submission of a written election under (a) of
34 this subsection, the employer shall pay, for the applicable period of
35 service:

36 (i) The difference between the employer contributions paid to the
37 public employees' retirement system, and the combined employer and
38 state contributions which would have been payable to the law
39 enforcement officers' and fire fighters' retirement system; and

1 (ii) An amount sufficient to ensure that the contribution level of
2 current members of the law enforcement officers' and fire fighters'
3 retirement system will not increase due to this transfer.

4 For the purpose of this subsection, the state contribution shall
5 not include the contribution related to the amortization of the costs
6 of the law enforcement officers' and fire fighters' retirement system
7 plan I as required by chapter 41.45 RCW.

8 **Sec. 3.** RCW 41.40.094 and 1996 c 38 s 1 are each amended to read
9 as follows:

10 (1) An employee who was a member of the public employees'
11 retirement system on or before January 1, 1996, and, on June 6, 1996,
12 is employed by an institution of higher education as a fire fighter as
13 defined in RCW 41.26.030, has the following options:

14 (a) Remain a member of the public employees' retirement system; or

15 (b) Make an irrevocable choice, filed in writing with the
16 department of retirement systems no later than January 1, 1997, to
17 transfer to the law enforcement officers' and fire fighters' retirement
18 system plan II as defined in RCW 41.26.030. An employee transferring
19 membership under this subsection (1)(b) shall be a dual member as
20 provided in RCW 41.54.010 unless the employee exercises the option to
21 transfer service credit under subsection (2) of this section.

22 (2)(a) An employee who transferred membership under subsection
23 (1)(b) of this section may choose to transfer service credit as a fire
24 fighter previously earned under the public employees' retirement
25 system, to the law enforcement officers' and fire fighters' retirement
26 system plan II, by making an irrevocable choice filed in writing with
27 the department of retirement systems within one year of the
28 department's announcement of the ability to make such a transfer.

29 (b) Any fire fighter choosing to transfer under this subsection
30 shall have transferred from the retirement system to the law
31 enforcement officers' and fire fighters' retirement system plan II:

32 (i) All the employee's applicable accumulated contributions and
33 employer contributions attributed to such employee; and (ii) all
34 applicable months of service, as defined in RCW 41.26.030(14)(b),
35 credited to the employee under chapter 41.40 RCW, as though such
36 service was rendered as a member of the law enforcement officers' and
37 fire fighters' retirement system.

1 (c) For the applicable period of service, the employee shall pay
2 the difference between the contributions such employee paid to the
3 retirement system, and the contributions which would have been paid by
4 the employee had the employee been a member of the law enforcement
5 officers' and fire fighters' retirement system, plus interest as
6 determined by the director. This payment shall be made no later than
7 December 31, ((1998)) 2000, or the date of retirement, whichever comes
8 first. If the payment required by this subsection is not paid in full
9 by the deadline, the transferred service credit shall not be used to
10 determine eligibility for benefits nor to calculate benefits under the
11 law enforcement officers' and fire fighters' retirement system. In
12 such case, the additional employee contributions transferred under this
13 subsection, and any payments made under this subsection, shall be
14 refunded to the employee and the employer shall be entitled to a credit
15 for the payments made under (d) of this subsection.

16 (d) For the applicable period of service, the employer shall pay:

17 (i) The difference between the employer contributions paid to the
18 public employees' retirement system, and the combined employer and
19 state contributions which would have been payable to the law
20 enforcement officers' and fire fighters' retirement system; and

21 (ii) An amount sufficient to ensure that the contribution level of
22 current members of the law enforcement officers' and fire fighters'
23 retirement system will not increase due to this transfer.

24 For the purpose of this subsection (2)(d), the state contribution
25 shall not include the contribution related to the amortization of the
26 costs of the law enforcement officers' and fire fighters' retirement
27 system plan I as required by chapter 41.45 RCW.

28 (e) An individual who transfers service credit and contributions
29 under this subsection shall be permanently excluded from the public
30 employees' retirement system for all service as a fire fighter.

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