
SENATE BILL 5725

State of Washington

58th Legislature

2003 Regular Session

By Senators Zarelli, T. Sheldon, Carlson, Reardon, Benton, Hewitt, Winsley, Hale, Sheahan, Honeyford, Finkbeiner, Johnson and West

Read first time 02/07/2003. Referred to Committee on Economic Development.

1 AN ACT Relating to providing tax incentives to support the
2 semiconductor cluster in Washington state; amending RCW 82.04.260,
3 82.04.240, and 82.04.280; adding new sections to chapter 82.08 RCW;
4 adding new sections to chapter 82.12 RCW; adding a new section to
5 chapter 82.04 RCW; adding a new section to chapter 84.36 RCW; adding a
6 new section to chapter 82.32 RCW; creating new sections; providing an
7 effective date; and providing expiration dates.

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

9 NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that the
10 welfare of the people of the state of Washington is positively impacted
11 through the encouragement and expansion of family wage employment in
12 the state's manufacturing industries. The legislature further finds
13 that targeting tax incentives to focus on key industry clusters is an
14 important business climate strategy. The Washington competitiveness
15 council has recognized the semiconductor industry, which includes the
16 design and manufacture of semiconductor materials, as one of the
17 state's existing key industry clusters. Businesses in this cluster in
18 the state of Washington are facing increasing pressure to expand
19 elsewhere. The sales and use tax exemptions for manufacturing

1 machinery and equipment enacted by the 1995 legislature improved
2 Washington's ability to compete with other states for manufacturing
3 investment. However, additional incentives for the semiconductor
4 cluster need to be put in place in recognition of the unique forces and
5 global issues involved in business decisions that key businesses in
6 this cluster face.

7 Therefore, the legislature intends to enact comprehensive tax
8 incentives for the semiconductor cluster that address activities of the
9 lead product industry and its suppliers and customers. Tax incentives
10 for the semiconductor cluster are important in both retention and
11 expansion of existing business and attraction of new businesses, all of
12 which will strengthen this cluster. The legislature also recognizes
13 that the semiconductor industry involves major investment that results
14 in significant construction projects, which will create jobs and bring
15 many indirect benefits to the state during the construction phase.

16 **Sec. 2.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each amended
17 to read as follows:

18 (1) Upon every person engaging within this state in the business of
19 manufacturing:

20 (a) Wheat into flour, barley into pearl barley, soybeans into
21 soybean oil, canola into canola oil, canola meal, or canola byproducts,
22 or sunflower seeds into sunflower oil; as to such persons the amount of
23 tax with respect to such business shall be equal to the value of the
24 flour, pearl barley, oil, canola meal, or canola byproduct
25 manufactured, multiplied by the rate of 0.138 percent;

26 (b) Seafood products which remain in a raw, raw frozen, or raw
27 salted state at the completion of the manufacturing by that person; as
28 to such persons the amount of tax with respect to such business shall
29 be equal to the value of the products manufactured, multiplied by the
30 rate of 0.138 percent;

31 (c) By canning, preserving, freezing, processing, or dehydrating
32 fresh fruits and vegetables, or selling at wholesale fresh fruits and
33 vegetables canned, preserved, frozen, processed, or dehydrated by the
34 seller and sold to purchasers who transport in the ordinary course of
35 business the goods out of this state; as to such persons the amount of
36 tax with respect to such business shall be equal to the value of the
37 products canned, preserved, frozen, processed, or dehydrated multiplied

1 by the rate of 0.138 percent. As proof of sale to a person who
2 transports in the ordinary course of business goods out of this state,
3 the seller shall annually provide a statement in a form prescribed by
4 the department and retain the statement as a business record; and

5 (d) Dairy products that as of September 20, 2001, are identified in
6 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
7 from the manufacturing of the dairy products such as whey and casein;
8 or selling the same to purchasers who transport in the ordinary course
9 of business the goods out of state; as to such persons the tax imposed
10 shall be equal to the value of the products manufactured multiplied by
11 the rate of 0.138 percent. As proof of sale to a person who transports
12 in the ordinary course of business goods out of this state, the seller
13 shall annually provide a statement in a form prescribed by the
14 department and retain the statement as a business record.

15 (2) Upon every person engaging within this state in the business of
16 splitting or processing dried peas; as to such persons the amount of
17 tax with respect to such business shall be equal to the value of the
18 peas split or processed, multiplied by the rate of 0.138 percent.

19 (3) Upon every nonprofit corporation and nonprofit association
20 engaging within this state in research and development, as to such
21 corporations and associations, the amount of tax with respect to such
22 activities shall be equal to the gross income derived from such
23 activities multiplied by the rate of 0.484 percent.

24 (4) Upon every person engaging within this state in the business of
25 slaughtering, breaking and/or processing perishable meat products
26 and/or selling the same at wholesale only and not at retail; as to such
27 persons the tax imposed shall be equal to the gross proceeds derived
28 from such sales multiplied by the rate of 0.138 percent.

29 (5) Upon every person engaging within this state in the business of
30 making sales, at retail or wholesale, of nuclear fuel assemblies
31 manufactured by that person, as to such persons the amount of tax with
32 respect to such business shall be equal to the gross proceeds of sales
33 of the assemblies multiplied by the rate of 0.275 percent.

34 (6) Upon every person engaging within this state in the business of
35 manufacturing nuclear fuel assemblies, as to such persons the amount of
36 tax with respect to such business shall be equal to the value of the
37 products manufactured multiplied by the rate of 0.275 percent.

1 (7) Upon every person engaging within this state in the business of
2 acting as a travel agent or tour operator; as to such persons the
3 amount of the tax with respect to such activities shall be equal to the
4 gross income derived from such activities multiplied by the rate of
5 0.275 percent.

6 (8) Upon every person engaging within this state in business as an
7 international steamship agent, international customs house broker,
8 international freight forwarder, vessel and/or cargo charter broker in
9 foreign commerce, and/or international air cargo agent; as to such
10 persons the amount of the tax with respect to only international
11 activities shall be equal to the gross income derived from such
12 activities multiplied by the rate of 0.275 percent.

13 (9) Upon every person engaging within this state in the business of
14 stevedoring and associated activities pertinent to the movement of
15 goods and commodities in waterborne interstate or foreign commerce; as
16 to such persons the amount of tax with respect to such business shall
17 be equal to the gross proceeds derived from such activities multiplied
18 by the rate of 0.275 percent. Persons subject to taxation under this
19 subsection shall be exempt from payment of taxes imposed by chapter
20 82.16 RCW for that portion of their business subject to taxation under
21 this subsection. Stevedoring and associated activities pertinent to
22 the conduct of goods and commodities in waterborne interstate or
23 foreign commerce are defined as all activities of a labor, service or
24 transportation nature whereby cargo may be loaded or unloaded to or
25 from vessels or barges, passing over, onto or under a wharf, pier, or
26 similar structure; cargo may be moved to a warehouse or similar holding
27 or storage yard or area to await further movement in import or export
28 or may move to a consolidation freight station and be stuffed,
29 unstuffed, containerized, separated or otherwise segregated or
30 aggregated for delivery or loaded on any mode of transportation for
31 delivery to its consignee. Specific activities included in this
32 definition are: Wharfage, handling, loading, unloading, moving of
33 cargo to a convenient place of delivery to the consignee or a
34 convenient place for further movement to export mode; documentation
35 services in connection with the receipt, delivery, checking, care,
36 custody and control of cargo required in the transfer of cargo;
37 imported automobile handling prior to delivery to consignee; terminal
38 stevedoring and incidental vessel services, including but not limited

1 to plugging and unplugging refrigerator service to containers,
2 trailers, and other refrigerated cargo receptacles, and securing ship
3 hatch covers.

4 (10) Upon every person engaging within this state in the business
5 of disposing of low-level waste, as defined in RCW 43.145.010; as to
6 such persons the amount of the tax with respect to such business shall
7 be equal to the gross income of the business, excluding any fees
8 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
9 percent.

10 If the gross income of the taxpayer is attributable to activities
11 both within and without this state, the gross income attributable to
12 this state shall be determined in accordance with the methods of
13 apportionment required under RCW 82.04.460.

14 (11) Upon every person engaging within this state as an insurance
15 agent, insurance broker, or insurance solicitor licensed under chapter
16 48.17 RCW; as to such persons, the amount of the tax with respect to
17 such licensed activities shall be equal to the gross income of such
18 business multiplied by the rate of 0.484 percent.

19 (12) Upon every person engaging within this state in business as a
20 hospital, as defined in chapter 70.41 RCW, that is operated as a
21 nonprofit corporation or by the state or any of its political
22 subdivisions, as to such persons, the amount of tax with respect to
23 such activities shall be equal to the gross income of the business
24 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
25 percent thereafter. The moneys collected under this subsection shall
26 be deposited in the health services account created under RCW
27 43.72.900.

28 (13) Until July 1, 2017, upon every person engaging within this
29 state in the business of manufacturing semiconductor materials, as to
30 such persons the amount of tax with respect to such business shall, in
31 the case of manufacturers, be equal to the value of the product
32 manufactured, or, in the case of processors for hire, be equal to the
33 gross income of the business, multiplied by the rate of 0.138 percent.
34 For the purposes of this subsection "semiconductor materials" means
35 silicon crystals, silicon ingots, raw polished semiconductor wafers,
36 integrated circuits, and microchips.

1 **Sec. 3.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to read
2 as follows:

3 Upon every person (~~(except persons taxable under RCW 82.04.260 (1),~~
4 ~~(2), (4), (5), or (6))~~) engaging within this state in business as a
5 manufacturer, except persons taxable as manufacturers under another
6 section of this chapter; as to such persons the amount of the tax with
7 respect to such business shall be equal to the value of the products,
8 including byproducts, manufactured, multiplied by the rate of 0.484
9 percent.

10 The measure of the tax is the value of the products, including
11 byproducts, so manufactured regardless of the place of sale or the fact
12 that deliveries may be made to points outside the state.

13 **Sec. 4.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to read
14 as follows:

15 Upon every person engaging within this state in the business of:
16 (1) Printing, and of publishing newspapers, periodicals, or magazines;
17 (2) building, repairing or improving any street, place, road, highway,
18 easement, right of way, mass public transportation terminal or parking
19 facility, bridge, tunnel, or trestle which is owned by a municipal
20 corporation or political subdivision of the state or by the United
21 States and which is used or to be used, primarily for foot or vehicular
22 traffic including mass transportation vehicles of any kind and
23 including any readjustment, reconstruction or relocation of the
24 facilities of any public, private or cooperatively owned utility or
25 railroad in the course of such building, repairing or improving, the
26 cost of which readjustment, reconstruction, or relocation, is the
27 responsibility of the public authority whose street, place, road,
28 highway, easement, right of way, mass public transportation terminal or
29 parking facility, bridge, tunnel, or trestle is being built, repaired
30 or improved; (3) extracting for hire or processing for hire, except
31 persons taxable as processors for hire under another section of this
32 chapter; (4) operating a cold storage warehouse or storage warehouse,
33 but not including the rental of cold storage lockers; (5) representing
34 and performing services for fire or casualty insurance companies as an
35 independent resident managing general agent licensed under the
36 provisions of RCW 48.05.310; (6) radio and television broadcasting,
37 excluding network, national and regional advertising computed as a

1 standard deduction based on the national average thereof as annually
2 reported by the Federal Communications Commission, or in lieu thereof
3 by itemization by the individual broadcasting station, and excluding
4 that portion of revenue represented by the out-of-state audience
5 computed as a ratio to the station's total audience as measured by the
6 100 micro-volt signal strength and delivery by wire, if any; (7)
7 engaging in activities which bring a person within the definition of
8 consumer contained in RCW 82.04.190(6); as to such persons, the amount
9 of tax on such business shall be equal to the gross income of the
10 business multiplied by the rate of 0.484 percent.

11 As used in this section, "cold storage warehouse" means a storage
12 warehouse used to store fresh and/or frozen perishable fruits or
13 vegetables, meat, seafood, dairy products, or fowl, or any combination
14 thereof, at a desired temperature to maintain the quality of the
15 product for orderly marketing.

16 As used in this section, "storage warehouse" means a building or
17 structure, or any part thereof, in which goods, wares, or merchandise
18 are received for storage for compensation, except field warehouses,
19 fruit warehouses, fruit packing plants, warehouses licensed under
20 chapter 22.09 RCW, public garages storing automobiles, railroad freight
21 sheds, docks and wharves, and "self-storage" or "mini storage"
22 facilities whereby customers have direct access to individual storage
23 areas by separate entrance. "Storage warehouse" does not include a
24 building or structure, or that part of such building or structure, in
25 which an activity taxable under RCW 82.04.272 is conducted.

26 As used in this section, "periodical or magazine" means a printed
27 publication, other than a newspaper, issued regularly at stated
28 intervals at least once every three months, including any supplement or
29 special edition of the publication.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW
31 to read as follows:

32 SALES TAX EXEMPTION FOR CONSTRUCTION. (1) The tax levied by RCW
33 82.08.020 shall not apply to charges made for labor and services
34 rendered in respect to the constructing of new buildings used for the
35 manufacturing of semiconductor materials, to sales of tangible personal
36 property that will be incorporated as an ingredient or component of
37 such buildings during the course of the constructing, or to labor and

1 services rendered in respect to installing, during the course of
2 constructing, building fixtures not otherwise eligible for the
3 exemption under RCW 82.08.02565(2)(b). The exemption is available only
4 when the buyer provides the seller with an exemption certificate in a
5 form and manner prescribed by the department. The seller shall retain
6 a copy of the certificate for the seller's files.

7 (2) To be eligible under this section the manufacturer or processor
8 for hire must meet the following requirements for an eight-year period,
9 such period beginning the day the new building commences commercial
10 production, or a portion of tax otherwise due shall be immediately due
11 and payable pursuant to subsection (3) of this section:

12 (a) The manufacturer or processor for hire must maintain at least
13 seventy-five percent of full employment at the new building for which
14 the exemption under this section is claimed.

15 (b) Before commencing commercial production at a new facility the
16 manufacturer or processor for hire must meet with the department to
17 review projected employment levels in the new buildings. The
18 department, using information provided by the taxpayer, shall make a
19 determination of the number of positions that would be filled at full
20 employment. This number shall be used throughout the eight-year period
21 to determine whether any tax is to be repaid.

22 (c) In those situations where a production building in existence on
23 the effective date of this section will be phased out of operation
24 during which time employment at the new building at the same site is
25 increased, the manufacturer or processor for hire shall maintain
26 seventy-five percent of full employment at the manufacturing site
27 overall.

28 (d) No application is necessary for the tax exemption. The person
29 is subject to all the requirements of chapter 82.32 RCW. A person
30 taking the exemption under this section must report as required under
31 section 11 of this act.

32 (3) If the employment requirement is not met for any one calendar
33 year, one-eighth of the exempt sales and use taxes shall be due and
34 payable by April 1st of the following year. The department shall
35 assess interest to the date the tax was imposed, but not penalties, on
36 the taxes for which the person is not eligible.

37 (4) The exemption applies to new buildings, or parts of buildings,

1 that are used exclusively in the manufacturing of semiconductor
2 materials, including the storage of raw materials and finished product.

3 (5) For the purposes of this section:

4 (a) "Commencement of commercial production" is deemed to have
5 occurred when the equipment and process qualifications in the new
6 building are completed and production for sale has begun; and

7 (b) "Full employment" is the number of positions required for full
8 capacity production at the new building, for positions such as line
9 workers, engineers, and technicians.

10 (c) "Semiconductor materials" has the same meaning as provided in
11 RCW 82.04.260(13).

12 (6) No exemption may be taken after July 1, 2017, however all of
13 the eligibility criteria and limitations are applicable to any
14 exemptions claimed before that date.

15 (7) This section expires July 1, 2017.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW
17 to read as follows:

18 USE TAX EXEMPTION FOR CONSTRUCTION MATERIALS AND INSTALLATION
19 SERVICES. (1) The provisions of this chapter do not apply with respect
20 to the use of tangible personal property that will be incorporated as
21 an ingredient or component of new buildings used for the manufacturing
22 of semiconductor materials during the course of constructing such
23 buildings or to labor and services rendered in respect to installing,
24 during the course of constructing, building fixtures not otherwise
25 eligible for the exemption under RCW 82.08.02565(2)(b).

26 (2) The eligibility requirements, conditions, and definitions in
27 section 5 of this act apply to this section.

28 (3) No exemption may be taken after July 1, 2017, however all of
29 the eligibility criteria and limitations are applicable to any
30 exemptions claimed before that date.

31 (4) This section expires July 1, 2017.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08 RCW
33 to read as follows:

34 SALES TAX EXEMPTION FOR GASES AND CHEMICALS. (1) The tax levied by
35 RCW 82.08.020 shall not apply to sales of gases and chemicals used by
36 a manufacturer or processor for hire in the manufacturing of

1 semiconductor materials. This exemption is limited to gases and
2 chemicals used in the manufacturing process to grow the product,
3 deposit or grow permanent or sacrificial layers on the product, to etch
4 or remove material from the product, to anneal the product, to immerse
5 the product, to clean the product, and other such uses whereby the
6 gases and chemicals come into direct contact with the product during
7 the manufacturing process, or uses of gases and chemicals to clean the
8 chambers and other like equipment in which such processing takes place.
9 For the purposes of this section, "semiconductor materials" has the
10 same meaning as provided in RCW 82.04.260(13).

11 (2) A person taking the exemption under this section must report
12 under section 11 of this act. No application is necessary for the tax
13 exemption. The person is subject to all of the requirements of chapter
14 82.32 RCW.

15 (3) This section expires July 1, 2017.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12 RCW
17 to read as follows:

18 USE TAX EXEMPTION FOR GASES AND CHEMICALS. (1) The provisions of
19 this chapter do not apply with respect to the use of gases and
20 chemicals used by a manufacturer or processor for hire in the
21 manufacturing of semiconductor materials. This exemption is limited to
22 gases and chemicals used in the manufacturing process to grow the
23 product, deposit or grow permanent or sacrificial layers on the
24 product, to etch or remove material from the product, to anneal the
25 product, to immerse the product, to clean the product, and other such
26 uses whereby the gases and chemicals come into direct contact with the
27 product during the manufacturing process, or uses of gases and
28 chemicals to clean the chambers and other like equipment in which such
29 processing takes place. For purposes of this section, "semiconductor
30 materials" has the same meaning as provided in RCW 82.04.260(13).

31 (2) A person taking the exemption under this section must report
32 under section 11 of this act. No application is necessary for the tax
33 exemption. The person is subject to all of the requirements of chapter
34 82.32 RCW.

35 (3) This section expires July 1, 2017.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW
2 to read as follows:

3 BUSINESS AND OCCUPATION TAX JOB CREDIT. (1) Subject to the limits
4 and provisions of this section, a credit is authorized against the tax
5 otherwise due under RCW 82.04.260(13) for persons engaged in the
6 business of manufacturing semiconductor materials. For the purposes of
7 this section "semiconductor materials" has the same meaning as provided
8 in RCW 82.04.260(13).

9 (2)(a) The credit under this section shall equal three thousand
10 dollars for each employment position used in manufacturing production
11 that takes place in a new building exempt from sales and use tax under
12 sections 5 and 6 of this act. A credit is earned for the calendar year
13 a person fills a position. Additionally a credit is earned for each
14 year the position is maintained over the subsequent consecutive years,
15 up to eight years. Those positions that are not filled for the entire
16 year are eligible for fifty percent of the credit if filled less than
17 six months, and the entire credit if filled more than six months.

18 (b) To qualify for the credit, the manufacturing activity of the
19 person must be conducted at a new building that qualifies for the
20 exemption from sales and use tax under sections 5 and 6 of this act.

21 (c) In those situations where a production building in existence on
22 the effective date of this section will be phased out of operation,
23 during which time employment at the new building at the same site is
24 increased, the person is eligible for credit for employment at the
25 existing building and new building, with the limitation that the
26 combined eligible employment not exceed full employment at the new
27 building. "Full employment" has the same meaning as in section 5 of
28 this act. The credit may not be earned until the commencement of
29 commercial production, as that term is used in section 5 of this act.

30 (3) No application is necessary for the tax credit. The person is
31 subject to all of the requirements of chapter 82.32 RCW. In no case
32 may a credit earned during one calendar year be carried over to be
33 credited against taxes incurred in a subsequent calendar year. No
34 refunds may be granted for credits under this section.

35 (4) If at any time the department finds that a person is not
36 eligible for tax credit under this section, the amount of taxes for
37 which a credit has been claimed shall be immediately due. The
38 department shall assess interest, but not penalties, on the taxes for

1 which the person is not eligible. The interest shall be assessed at
2 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
3 shall be retroactive to the date the tax credit was taken, and shall
4 accrue until the taxes for which a credit has been used are repaid.

5 (5) A person taking the credit under this section must report under
6 section 11 of this act.

7 (6) Credits may be taken after July 1, 2017, for those buildings at
8 which commercial production began before July 1, 2017, subject to all
9 of the eligibility criteria and limitations of this section.

10 (7) This section expires July 1, 2017.

11 NEW SECTION. **Sec. 10.** A new section is added to chapter 84.36 RCW
12 to read as follows:

13 PROPERTY TAX EXEMPTION FOR MANUFACTURING MACHINERY AND EQUIPMENT.

14 (1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565
15 used in manufacturing semiconductor materials at a building exempt from
16 sales and use tax and in compliance with the employment requirement
17 under sections 5 and 6 of this act are tax exempt from taxation.
18 "Semiconductor materials" has the same meaning as provided in RCW
19 82.04.260(13).

20 (2) A person seeking this exemption must make application to the
21 county assessor, on forms prescribed by the department.

22 (3) A person receiving an exemption under this section must report
23 in the manner prescribed in section 11 of this act.

24 (4) This section is effective for taxes levied for collection in
25 2006 and thereafter.

26 (5) This section expires December 31, 2017, for taxes levied for
27 collection in 2018.

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.32 RCW
29 to read as follows:

30 ACCOUNTABILITY. (1) The legislature finds that accountability and
31 effectiveness are important aspects of setting tax policy. In order to
32 make policy choices regarding the best use of limited state resources
33 the legislature needs information on how a tax incentive is used.

34 (2)(a) A person who reports taxes under RCW 82.04.260(13) or who
35 claims an exemption or credit under sections 5 through 10 of this act,
36 shall make an annual report to the department detailing employment and

1 wages at the manufacturing site. The report is due by March 31st
2 following any year in which a tax exemption or credit under sections 5
3 through 10 of this act is taken. This information is not subject to
4 the confidentiality provisions of RCW 82.32.330 and may be disclosed to
5 the public upon request.

6 (b) If a person fails to submit an annual report under (a) of this
7 subsection the department shall declare the amount of taxes exempted or
8 credited for that year to be immediately due and payable. Excise taxes
9 payable under this subsection are subject to interest, as provided
10 under this chapter.

11 (3) By November 1, 2016, the fiscal committees of the house of
12 representatives and the senate, in consultation with the department,
13 shall report to the legislature on the effectiveness of chapter . . . ,
14 Laws of 2003 (this act) in regard to keeping Washington competitive.
15 The report shall measure the effect of chapter . . . , Laws of 2003
16 (this act) on job retention, net jobs created for Washington residents,
17 company growth, diversification of the state's economy, cluster
18 dynamics, and other factors as the committees select. The report shall
19 include a discussion of principles to apply in evaluating whether the
20 legislature should reenact any or all of the tax preferences in chapter
21 . . . , Laws of 2003 (this act).

22 NEW SECTION. **Sec. 12.** CAPTIONS. Captions used in this act are
23 not part of the law.

24 NEW SECTION. **Sec. 13.** This act takes effect July 1, 2005.

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