

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3566S.05P
 Bill No.: Perfected SS#2 for SCS for SB 745
 Subject: Corporations; Cooperatives; Energy; Public Service Commission; Sunshine Law;
 Taxation and Revenue - Sales and Use; Utilities
 Type: Original
 Date: March 10, 2022

Bill Summary: This proposal modifies provisions relating to utilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue*	\$0 or Could exceed (\$492,000 to \$816,000)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or Could exceed (\$492,000 to \$816,000)	\$0 or (Unknown)	\$0 or (Unknown)

*The loss of sales tax revenue is based on the estimated cost of one (1) twenty megawatt solar farm developed in Missouri (with an estimated cost of between \$16.4 million and \$27.2 million).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Conservation Commission Fund (0609)	\$0 or Could exceed (\$20,500 to \$34,000)	\$0 or (Unknown)	\$0 or (Unknown)
Park & Soil (613, 614)	\$0 or Could exceed (\$16,400 to \$27,200)	\$0 or (Unknown)	\$0 or (Unknown)
Education Trust Fund	\$0 or Could exceed (\$164,000 to \$272,000)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or Could exceed (\$200,900 to \$333,200)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Federal Funds*	(\$300,000)	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$300,000)	\$0	\$0

*\$386.885 - The Department of Natural Resources – Division of Energy is required to oversee the distributed energy resources study (estimated to cost \$300,000), which is to be paid for through funds available from federal and state grants. DNR states two potential, but uncertain funding possibilities exist. DNR-DE has federal funds associated with a previous grant in a revolving loan fund that can potentially be repurposed for use to pay the contractor. Also, funds available from the Infrastructure Investment and Jobs Act (IIJA) could be used. Oversight will assume federal funding will be available.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0 or (\$660,920 to \$1,096,160)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency and local responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

Officials from the **Department of Revenue (DOR)** state this proposal creates a new state and local sales and use tax exemption for Missouri companies that purchase a solar photovoltaic energy distributed generation system and the supplies need to support it. This is expected to go into effect August 28, 2022.

DOR notes this exemption would be available to a Missouri company that employs at least three people and purchases a utility scale project that generates at least 20 megawatts. The O'Fallon Renewable Energy Center completed in 2014 is a 5.7 megawatt utility scale project. Ameren is constructing a 65 megawatt utility scale project. At this time the Department is not aware of any additional large scale projects that may qualify.

DOR notes that the Solar Energy Industries Association (SEIA) states that only 4% of all energy comes from a solar source. While this may not have much impact during the fiscal note period, proposed federal policies could increase the use of solar and the purchase of these systems in the future. Based on data by SEIA the average installation cost for a utility scale solar project is \$0.85 to \$1.36 per watt, with a one Megawatt solar farm costing between \$820,000 and \$1,360,000. Therefore a 20 megawatt project could cost between \$16.4 million and \$27.2 million.

The state sales tax is 4.225% and is distributed as shown below. For fiscal note purposes, DOR will use a 4.03% weighted average for the local sales tax rate.

General Revenue is 3%

School District Trust Fund is 1% (Section 144.701)

Conservation Commission Fund is .125% (Article IV, Section 43(a))

Parks, Soil & Water Funds .1% (Article IV, Section 47(a))

Local 4.03%

If just one 20 megawatt project was to be purchased, DOR would assume the following impact:

GR	0.03	(\$492,000)	(\$816,000)
Education	0.01	(\$164,000)	(\$272,000)
Conservation	0.00125	(\$20,500)	(\$34,000)
DNR	0.001	(\$16,400)	(\$27,200)
TSR		(\$692,900)	(\$1,149,200)
Local Loss	0.0403	(\$660,920)	(\$1,096,160)

Give the size of these projects, DOR will reflect a \$0 (no projects qualify) or greater than the estimated impact should multiple projects qualify.

This proposal would require that the Department modify its Exemption Certificate (Form 149), website and computer system. These changes are estimated to cost \$3,596.

Additionally, DOR would need FTE if the number of refund claims generated from this exemption exceed 1,500 refund requests. 1 Associate Customer Service Representative for every 1,500 refund request

Oversight assumes the Department of Revenue is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs for computer upgrades related to this proposal. Oversight also notes the small number of projects which would qualify for the credit and assumes DOR would not need additional FTE. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

In response to a similar proposal from this year (SB 881), officials from the **Office of Administration - Budget and Planning (BAP)** noted this proposal will impact the calculation under Article X, Section 18(e).

BAP noted this proposal would grant a sales tax exemption for the purchase of the supplies and equipment for utility scale solar energy farms. Qualifying utility scale projects must generate more than 20 megawatts (MW). Qualifying companies must be located in Missouri and employ at least three Missouri residents in full-time positions.

B&P is unaware of any such large-scale utility projects that may qualify for this exemption. B&P notes that the largest Ameren related utility scale project is 6.5 MW¹. In addition, the O'Fallon Renewable Energy Center (completed in 2014) is a 5.7 MW² utility scale project.

Based on data published by the Solar Energy Industries Association (SEIA), the average instillation cost for a utility scale solar project was \$0.82 to \$1.36 per watt, with a one MW solar

¹ <https://www.burnsmcd.com/insightsnews/in-the-news/2021/06/ameren-community-solar-project-missouri>

² <https://www.seia.org/state-solar-policy/missouri-solar>

farm costing between \$820,000 and \$1,360,000. Therefore, B&P estimates that a 20 MW utility scale project could have instillation costs between \$16.4 million to \$27.2 million.

Based on the numbers above, B&P estimates that for every one qualifying utility scale project, total state revenues could be reduced by \$692,900 to \$1,149,200. Using the population weighted local sales tax rate for 2021, B&P estimates that local funds could also be reduced by \$660,920 to \$1,096,160 per qualifying project. Table 1 shows the estimated impact per state and local fund for one qualifying project.

Table 1: Estimated Revenue Impact per Qualifying Solar Project

<u>State Funds</u>	Low	High
General Revenue	(\$492,000)	(\$816,000)
Education (SDTF)	(\$164,000)	(\$272,000)
Conservation	(\$20,500)	(\$34,000)
DNR	(\$16,400)	(\$27,200)
Total State Revenue		
Loss	(\$692,900)	(\$1,149,200)
<u>Local Funds</u>		
Local Revenue		
Loss	(\$660,920)	(\$1,096,160)

B&P does not have enough information to determine when, or how many, such qualifying projects may occur. Therefore, in any given fiscal year the actual revenue impacts may be \$0 (no qualifying projects) to greater than the estimates shown above (multiple qualifying projects).

Oversight will reflect BAP and DOR’s estimated fiscal impacts ranging from \$0 (no qualifying projects) to the maximum amount estimated by BAP and DOR (multiple qualifying projects).

In response to a similar proposal from this year (SB 881), officials from the **Missouri Department of Conservation** noted the proposal would have an unknown fiscal impact but greater than \$250,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any decrease in sales and use tax collected would decrease revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. The MDC assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes that the Conservation and Park, Soil, and Water Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) and Article IV Section 47 (a) of the Missouri Constitution thus MDC=s and DNR’s sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P’s and DOR’s estimates of impact on the fiscal note.

In response to a similar proposal from this year (SB 881), officials from the **Department of Elementary and Secondary Education** assumed this proposed legislation will not impact the Department of Elementary and Secondary Education but will decrease Proposition C revenue sent to the state and distributed to Local Education Agencies in the state of Missouri, as well as, lower the St. Louis City school district sales tax revenue. DESE defers to the Department of Revenue for an estimated impact.

In response to a similar proposal from this year (SB 881), officials from the **Department of Natural Resources** deferred to the **Department of Revenue** for the potential fiscal impact of this proposal.

In response to a similar proposal from this year (SB 881), officials from the **Missouri Department of Transportation** and the **City of Springfield** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Oversight will assume more than one such project could be developed in the state. Therefore, Oversight will utilized DOR and B&P’s estimated cost, but will reflect a “could exceed” their estimate in FY 2023. Also, Oversight will reflect a \$0 or (Unknown) loss in future years if additional projects are developed.

Section 386.885 – Task Force on Distributed Energy Resources and Net Metering

In response to a similar proposal (SB 763), officials from the **Department of Natural Resources – Division of Energy (DNR-DE)** stated that this legislations requires the DNR-DE to oversee the distributed energy resources study to be selected and conducted by an independent and objective expert with input from the members of the task force. The cost of said study shall be paid for through funds available from federal and state grants applied for by the division of energy. The division of energy shall establish procedures for the submission and non-public disclosure of confidential and propriety information.

DNR-DE anticipates to be able to identify contractors with experience in conducting distributed

energy resource studies. The work will require specialized knowledge of applicable Missouri statutes, electric utility generation, transmission and distribution systems and related costs, distributed energy generation systems and grid integration, wholesale energy market operation and pricing. The language in the bill does not define “distributed energy resources.” The term may be defined broadly, but since this legislation focuses on net metering, DNR-DE assumes that the study contemplated in the legislation will be limited to distributed generation. DNR-DE anticipates the study will require the contractor to meet with the task force, retail electric suppliers and other stakeholders to discuss and finalize the work plan, conduct cost/benefit analyses, and other work as required to fulfill the contract requirements. Based on the revisions, DNR-DE officials do not anticipate the study will be granular, instead focusing on the practical and economic benefits, challenges, and drawbacks of increased distributed energy generation in the state without the requirement of determining specific rates for each retail electric provider.

DNR-DE may not have adequate “...funds available from federal and state grants applied for by the division of energy” to cover this cost in the short term as the grants already applied for by DNR-DE have all funds assigned to other activities. To DNR-DE’s knowledge, there is not any certainty as to the availability of any sufficient federal or state grants that can be readily applied for and awarded in time to pay for this initiative based upon the time constraints contained in the proposal. If no funding opportunities arise, DE would require General Revenue amounting to \$300,000 to fulfill the requirements of this section.

Two potential, but uncertain funding possibilities exist. DNR-DE has federal funds associated with a previous grant in a revolving loan fund that can potentially be repurposed for use to pay the contractor. DNR-DE would be required to submit a request to the U.S. Department of Energy (DOE) requesting the repurposing of funds. DOE accepts such requests in either January or June, but may be willing to accept such a request outside of those months. Presuming DOE is agreeable to repurposing the funds, the contractor would be required to comply with American Recovery and Reinvestment Act of 2009 (ARRA) flow-down requirements, which are attached to those funds. DNR-DE anticipate initiating a formal request to DOE for allowance to repurpose up to \$300,000, although DOE’s approval of such a repurposing request is not guaranteed.

Additionally, it is possible that funding from the Infrastructure Investment and Jobs Act (IIJA) could be used. As the bill is currently written, DNR-DE’s understanding is that State Energy Program (SEP) funds from the IIJA can be used for any allowable activity under SEP (10 CFR 420). However, usage of such funds for the purpose described in this bill could detract from the ability of DNR-DE to pursue additional opportunities presented by the IIJA, and the exact amount of funding to be received from the IIJA is not certain at this time.

Oversight will reflect this cost to federal funds and note the possibility that if federal funding is not available, state General Revenue may be needed.

DNR-DE anticipated they will engage stakeholders as part of the study process. However, based on the direction that “House Research and Senate Research shall provide necessary clerical, research, fiscal, and legal services to the task force,” DNR-DE anticipates that House Research

and Senate Research rather than DNR-DE will have primary responsibility for drafting the study RFP, study contracts, and task force report. DNR-DE will require 1 FTE Research/Data Analyst to coordinate with House Research and Senate Research, provide technical assistance, and to prepare material for review by the task force. This would be a temporary position that would terminate at the end of the project period.

As Section 385.885 expires on December 31, 2022, **Oversight** will assume DNR will not require hiring a new FTE for the few months this FTE may be needed. Therefore, Oversight will assume DNR will be able to implement the provisions of this proposal with existing resources.

Section 386.890 - Net Metering

In response to a similar proposal from this year (SB 763), officials from the **Department of Commerce and Insurance - Public Service Commission (PSC)** stated that this legislation may require a rulemaking by the PSC in order to implement the provisions. Rulemakings generally result in an estimated cost of up to approximately \$4,700.

The PSC is funded by an assessment on Commission-regulated public utilities pursuant to Section 386.370 RSMo, and not by any state general appropriations. Depending on the cumulative effect of all PSC-impacting legislation passed in the current session and the associated increased costs associated with that legislation to the PSC, the PSC may need to request an increase in appropriation authority and/or FTE allocation as appropriate through the budget process.

Oversight notes that the PSC has stated their agency should be able to absorb the cost associated with this proposal (depending on cumulative effect of all PSC-impacting legislation passed). Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for the PSC.

In response to a similar proposal from this year (SB 763), officials from the **Missouri Department of Conservation, the Missouri Department of Transportation, the Missouri House of Representatives** and the **Office of Administration** each assumed this proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for those agencies.

Section 393.1275 – Accounting Practices of Public Utilities

In response to a previous version, officials from the **Department of Commerce and Insurance (DCI)** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for DCI.

In response to a previous version, officials from the **Little Blue Valley Sewer District**, the **Metropolitan St. Louis Sewer District** and the **Wayne County Pwsd** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other utilities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information (MOLIS) database is available upon request.

Sections 393.1700 & 393.1715 - Financing Orders

In response to a similar proposal from this year (SB 756), officials from the **Department of Commerce and Insurance** assumed no fiscal impact to the department. However, should the extent of the work be more than anticipated, the department would request additional appropriation and/or FTE through the budget process.

In response to a similar proposal from this year (SB 756), officials from the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Office of Administration**, the cities: **Kansas City**, **O'Fallon**, **Springfield** and the utilities: **Metropolitan St. Louis Sewer District**, **South River Drainage District**, **St. Louis-Jefferson Swmd**, **Hancock Street Light District** each assumed the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

In response to a similar proposal from this year (SB 756), officials from the **Joint Committee on Administrative Rules** assumed this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

In response to a similar proposal from this year (SB 756), officials from the **Office of the Secretary of State (SOS)** noted many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and utilities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Section 610.021 – Sunshine Law

In response to a similar proposal from this year (SB 827), officials from the **Department of Commerce and Insurance**, the **South River Drainage District**, the **St. Louis-Jefferson SWMD Solid Waste District**, the **Wayne County Pwsd** and the **Hancock Street Light District** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from last year (SB 214), officials from the **Butler County Pwsd #2**, the **Class County Pwsd #2**, the **Clarence/Cannon Wholesale Water District**, the **Corder Water/Waste Water District**, the **East Butler County Sewer District**, the **Lexington Water/Wastewater District**, the **Little Blue Valley Sewer District**, the **Macon County Pwsd #1**, the **Platte County Pwsd #6**, the **Schelle City Water Department**, the **South River Drainage District**, the **City of Springfield**, the **St. Charles County Pwsd #2**, the **St. Genevieve County Pwsd #1** and the **Stone County Pwsd #1** each assumed the proposal would have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have each stated the proposal would not have a direct fiscal impact on their respective organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note or this section.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other utilities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Senate Amendment 1

Oversight assumes Senate Amendment 1 will have no additional fiscal impact on state or local governments.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
Revenue Loss – §144.030 Project exemption for solar systems	\$0 or Could exceed (\$492,00 to \$816,000)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	\$0 or Could exceed (\$492,00 to \$816,000)	\$0 or (Unknown)	\$0 or (Unknown)
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
CONSERVATION COMMISSION FUND (0609)			
Revenue Loss – §144.030 Project exemption for solar systems	\$0 or Could exceed (\$20,500 to \$34,000)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	\$0 or Could exceed (\$20,500 to \$34,000)	\$0 or (Unknown)	\$0 or (Unknown)
PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)			
Revenue Loss – §144.030 Project exemption for solar systems	\$0 or Could exceed (\$16,400 to \$27,200)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON PARKS	\$0 or Could exceed (\$16,400 to \$27,200)	\$0 or (Unknown)	\$0 or (Unknown)

AND SOILS STATE SALES TAX FUND(S)			
SCHOOL DISTRICT TRUST FUND (0688)			
<u>Revenue Loss</u> – §144.030 Project exemption for solar systems	\$0 or Could exceed (\$164,000 to <u>\$272,000</u>)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	\$0 or Could exceed (\$164,000 to <u>\$272,000</u>)	\$0 or (Unknown)	\$0 or (Unknown)
<u>FISCAL IMPACT</u> – State Government (continued)	FY 2023 (10 Mo.)	FY 2024	FY 2025
FEDERAL FUNDS			
<u>Cost</u> – DNR - Independent Contractor – to conduct distributed energy resource study §386.885 p. 7	<u>(\$300,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$300,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Loss</u> – §144.030 Project exemption for solar systems	\$0 or Could exceed (\$660,920 to <u>\$1,096,160</u>)	\$0 or (Unknown)	\$0 or (Unknown)
NET ESTIMATED EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0 or Could exceed (\$660,920 to <u>\$1,096,160</u>)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

Small utility businesses could be impacted by this proposal.

FISCAL DESCRIPTION

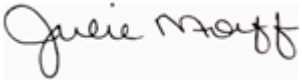
This proposal modifies provisions relating to utilities.

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

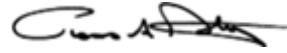
SOURCES OF INFORMATION

- Department of Elementary and Secondary Education
- Department of Natural Resources
- Department of Revenue
- Office of Administration - Budget and Planning
- Missouri Department of Conservation
- Missouri Department of Transportation
- City of Springfield

L.R. No. 3566S.05P
Bill No. Perfected SS#2 for SCS for SB 745
Page **14** of **14**
March 10, 2022



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March 10, 2022



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