

Original sponsor: Gardiner

Offered: 4/6/77
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 264 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fisheries enhancement; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 16.10.375 is repealed and re-enacted to read:

10 Sec. 16.10.375. REGIONAL SALMON PLAN. The commissioner shall
11 designate regions of the state for the purpose of salmon production and
12 shall develop and amend as necessary a comprehensive salmon plan for
13 each region for both public and private nonprofit hatchery systems.
14 Subject to plan approval by the commissioner, comprehensive salmon plans
15 shall be developed by regional planning teams consisting of department
16 personnel and representatives of the appropriate qualified regional
17 associations formed under sec. 380 of this chapter.

18 * Sec. 2. AS 16.10.400(a) and (e) are amended to read:

19 (a) The commissioner or his designee may issue or renew a permit,
20 subject to the restrictions [HE CONSIDERS DESIRABLE OR THAT ARE] imposed
21 by statute or regulation under secs. 400 - 470 of this chapter, to a
22 nonprofit corporation organized under AS 10.20, after the permit appli-
23 cation has been reviewed by the regional planning team, for the con-
24 struction and operation of a salmon hatchery.

25 (e) A qualified regional association formed under sec. 380 of this
26 chapter, if it has become a nonprofit corporation under AS 10.20, has a
27 preference right to a permit if its proposed hatchery is provided for in
28 the comprehensive plan for that region developed under sec. 375 of this
29 chapter. Any other [A] local nonprofit hatchery corporation [ESTAB-

1 LISHED OR] approved by a qualified regional association has an identical
2 preference right.

3 * Sec. 3. AS 16.10.430(a) is amended to read:

4 (a) If a permit holder fails to comply with the conditions and
5 terms of the permit issued under secs. 400 - 470 of this chapter within
6 a reasonable period after notification of his noncompliance by the
7 department, his permit may be suspended or revoked, in the discretion of
8 the commissioner after the regional planning team for the area in which
9 the hatchery is located is notified and granted an opportunity to com-
10 ment upon the proposed suspension or revocation.

11 * Sec. 4. AS 16.10.450 is amended to read:

12 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
13 hatchery operator who sells salmon returning from the natural waters of
14 the state, or sells salmon eggs to another hatchery operating under
15 secs. 400 - 470 of this chapter, after utilizing the funds for reason-
16 able operating costs, including debt retirement, [OR] expanding its
17 facilities, or for costs of operating the qualified regional association
18 for the area in which the hatchery is located, shall expend the remain-
19 ing funds on fisheries research, salmon rehabilitation projects, or
20 other fisheries activities of the qualified regional association. Fish
21 returning to [SOLD BY] hatcheries and sold for human consumption shall
22 be of comparable quality to fish harvested by commercial fisheries in
23 the area, and shall be sold at prices commensurate with the current
24 market.

25 * Sec. 5. AS 16.10.470 is repealed and re-enacted to read:

26 Sec. 16.10.470. ANNUAL REPORT. A person who holds a permit for
27 the operation of a salmon hatchery under secs. 400 - 470 of this chapter
28 shall submit an annual report to the department and to the qualified
29 regional association of the area in which the hatchery is located to

1 include but not be limited to statistics on the number of eggs and fish
2 handled by the hatchery, whether for production or sale.

3 * Sec. 6. AS 16.10.500 is amended to read:

4 Sec. 16.10.500. DECLARATION OF POLICY. It is the policy of the
5 state, under secs. 500 - 550 of this chapter, to promote the enhancement
6 of the state's fisheries by means of grants for organizational and plan-
7 ning purposes to regional associations which have qualified under sec.
8 380 of this chapter, and by means of long-term, low interest loans for
9 hatchery planning, [AND] construction, and operation.

10 * Sec. 7. AS 16.10 is amended by adding a new section to read:

11 Sec. 16.10.505. FISHERIES ENHANCEMENT REVOLVING LOAN FUND. There
12 is created within the Department of Commerce and Economic Development a
13 revolving fund to be known as the fisheries enhancement revolving loan
14 fund. The fund shall be used to carry out the purposes of secs. 500 -
15 550 of this chapter and for no other purpose.

16 * Sec. 8. AS 16.10.510(1) and (2) are amended to read:

17 (1) make loans to permit holders, under secs. 400 - 470 of
18 this chapter, including those holders issued permits before the effec-
19 tive date of this Act, for the planning, [AND] construction, and opera-
20 tion of hatchery facilities;

21 (2) make loans to qualified regional associations which have
22 formed a nonprofit corporation or a local nonprofit corporation [ESTAB-
23 LISHED OR] approved by a qualified regional association, for precon-
24 struction activities necessary to obtain a permit [, PROVIDED THE
25 HATCHERY HAS RECEIVED PRELIMINARY PROJECT APPROVAL FROM THE COMMISSIONER
26 OF FISH & GAME];

27 * Sec. 9. AS 16.10.510(8) is repealed and re-enacted to read:

28 (8) no repayment of principal is required for an initial
29 period of six years, and no interest on the principal shall accrue

1 during that period.

2 * Sec. 10. AS 16.10.510 is amended by adding a new paragraph to read:

3 (9) make grants for organizational and planning purposes to
4 qualified regional associations which have formed a nonprofit corpora-
5 tion, in amounts not exceeding \$100,000 per region and up to an addi-
6 tional \$100,000 on a 50/50 cash matching basis with the regional associ-
7 ations which have an authorized assessment under sec. 530 or 540 of this
8 chapter. The state portion of the matching share shall be available
9 when a final vote for assessments is made under sec. 530 or 540 of this
10 chapter.

11 * Sec. 11. AS 16.10.520(a) is amended to read:

12 (a) A single fisheries enhancement loan may not exceed \$3,000,000
13 for a hatchery constructed under a permit granted to a qualified re-
14 gional association which has formed a nonprofit corporation, or to a
15 local nonprofit corporation [ESTABLISHED OR] approved by a qualified
16 regional association. A loan for any other nonprofit hatchery corpora-
17 tion project may not exceed \$300,000.

18 * Sec. 12. AS 16.10.530(a) is repealed and re-enacted to read:

19 (a) The commissioner of commerce and economic development, on
20 request of the qualified regional association for the area in which the
21 assessment is to be levied, shall establish areas in which an assessment
22 shall be levied on the sale of one or more species of salmon by persons
23 licensed under AS 16.05.540 - 16.05.600. A request by the qualified
24 regional association shall include a description of compliance with (e)
25 of this section. An assessment levied under this section shall be for
26 the purpose of providing revenue for the qualified regional association
27 for the area in which the assessment is made. The rate and conditions
28 of assessments shall be stated by the appropriate qualified regional
29 association in conjunction with the request to the commissioner of

1 commerce and economic development under this subsection.

2 * Sec. 13. AS 16.10.530(c) and (d) are amended to read:

3 (c) The commissioner and the appropriate qualified regional asso-
4 ciation must agree on a means of collection of the assessment [BEFORE A
5 LOAN IS MADE,] and the commissioner may, by regulation, require its
6 collection by buyers of the salmon upon the sale of which an assessment
7 is levied.

8 (d) The assessment shall terminate upon request of the qualified
9 regional corporation when all financial obligations relating to the
10 assessments have been met [THE PRINCIPAL AND INTEREST ON THE LOAN IS
11 PAID].

12 * Sec. 14. AS 16.10.530 is amended by adding new subsections to read:

13 (e) Before an assessment is made under this section, the qualified
14 regional association for the area in which the assessment is to be
15 levied shall hold an initial public meeting to explain and discuss the
16 necessity for the assessment and to explain the registration procedure
17 established under (f) of this section. Reasonable public notice of the
18 meeting shall be sent to all limited entry permit holders actively
19 participating in a fishery in the area, posted in at least three cen-
20 trally located public places in the area, and published in at least one
21 newspaper of general circulation at least one time a week for three
22 consecutive weeks in the area, if one exists. The notice shall briefly
23 state the amount of the assessment and a short general description of
24 the purposes for which the assessment money will be used. A ballot
25 shall be mailed to all limited entry permit holders actively participat-
26 ing in a fishery in the area at least 20 days before the initial public
27 meeting and contain a copy of the notice and ask the question whether an
28 assessment shall be imposed. At the public meeting the returned ballots
29 shall be counted by a special committee appointed by the regional

1 association for that purpose, and a vote by written ballot shall be
2 taken on the question from among the limited entry permit holders
3 present at the initial public meeting. After the vote is taken at the
4 initial meeting a second public meeting shall be held, upon the limited
5 notice of publication in a newspaper of general circulation, each day
6 for five consecutive days and the mailing of personal notice to all
7 limited entry permit holders who actively participate in a fishery in
8 the area at least 14 days before the second public meeting, to give
9 those who did not vote by written ballot at the initial public meeting
10 an opportunity to vote. These votes shall be counted with the votes
11 counted at the initial meeting. A majority vote for the assessment is
12 required from the combined total of the returned ballots and the votes
13 by ballot cast at both public meetings, before an assessment may be
14 imposed. No person may vote twice.

15 (f) The qualified regional association shall establish standard
16 registration procedures for voting on assessments under this section.

17 * Sec. 15. AS 16.10 is amended by adding new sections to read:

18 Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association
19 qualified under sec. 380 of this chapter as a regional association is
20 given the authority to form a regional salmon enhancement authority.
21 There is created with respect to each of the associations qualified
22 under sec. 380 of this chapter a public body corporate and politic as a
23 political subdivision of the state to function in the operating areas of
24 the individual associations. Each authority may exercise all powers
25 conferred by secs. 600 - 690 of this chapter.

26 (b) A regional salmon enhancement authority may not transact
27 business or exercise powers granted to it until the governing body of
28 the association has, by resolution, declared there is a need for the
29 authority to function, given it the authority to function and appointed

1 persons to serve as the board of commissioners of the authority. The
2 number of members of the board of commissioners, their terms of office
3 and the filling of vacancies in office shall be determined by resolution
4 of the governing body of the association.

5 (c) The regional salmon enhancement authority has jurisdiction to
6 operate in all or part of the operating area of the individual associ-
7 ation as determined by resolution of the governing body of the associa-
8 tion.

9 Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement author-
10 ity is exempt from payment of taxes or assessments for a period of 20
11 years from the effective date of this Act on property owned by the
12 authority which is used for salmon enhancement purposes.

13 (b) All obligations issued under secs. 600 - 690 of this chapter
14 are issued by a body corporate and public which is a political sub-
15 division of the state and for an essential public and governmental
16 purpose, and the obligations, and the interest and income on and from
17 the obligations, and all fees, charges, funds, revenues, income and
18 other money pledged or available to pay or secure the payment of the
19 obligations or interest are exempt from taxation for a period of 20
20 years from the effective date of this Act, except for transfer, inheri-
21 tance and estate taxes.

22 (c) All obligations or liabilities of a regional salmon enhance-
23 ment authority remain its own and are not obligations or liabilities of
24 the state.

25 Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement
26 authority has the general power to

- 27 (1) adopt, alter and use a corporate seal;
28 (2) prescribe, adopt, amend and repeal bylaws;
29 (3) sue and be sued in its own name;

1 (4) appoint officers, agents and employees and vest them with
2 powers and duties and to fix, change and pay compensation for their
3 services as the authority may determine;

4 (5) borrow money, make and issue bonds, notes and other
5 evidences of indebtedness of the authority for any of its corporate
6 purposes and to secure payment of its bonds and of other obligations by
7 pledge of or lien on all or any of its assets, contracts, revenue and
8 income;

9 (6) make and issue bonds for the purpose of funding, refund-
10 ing, purchasing, paying or discharging any of the outstanding bonds or
11 obligations issued or assumed by it or bonds or obligations the princi-
12 pal or interest of which is payable in whole or in part from its revenue;

13 (7) make and execute agreements, contracts and other instru-
14 ments necessary or convenient in the exercise of its powers and func-
15 tions, including contracts with any person, firm, corporation, govern-
16 ment agency or other entity;

17 (8) receive, administer and comply with the conditions and
18 requirements of an appropriation, gift, grant or donation of property or
19 money;

20 (9) invest or reinvest money or funds held by the authority
21 in obligations or other securities or investments in which banks or
22 trust companies in the state may legally invest funds held in reserves
23 or sinking funds or funds not required for immediate disbursement, and
24 in certificates of deposits or time deposits;

25 (10) acquire, hold, use, lease, sell or otherwise dispose of
26 property of any kind, real, personal or mixed or any interest in it;

27 (11) do all acts and things necessary, convenient or desirable
28 to carry out the powers granted or implied in secs. 600 - 690 of this
29 chapter;

1 (12) adopt, amend and repeal rules and regulations necessary
2 for the exercise and performance of its powers and duties.

3 Sec. 16.10.630. BONDS AND NOTES. (a) The authority, by board of
4 commissioners resolution, may issue bonds and bond anticipation notes in
5 order to provide funds to carry out and effectuate its purposes.

6 (b) The principal and interest on these bonds or notes is payable
7 from authority funds. Bond anticipation notes may be payable from the
8 proceeds of the sale of bonds or from the proceeds of sale of other bond
9 anticipation notes or, if bond or bond anticipation note proceeds are
10 not available, such notes may be paid from other funds or assets of the
11 authority. Bonds or notes may be additionally secured by a pledge of a
12 grant or contribution from the federal or state government, a corpora-
13 tion, association, institution or person, or a pledge of money, income,
14 or revenues of the authority from any source.

15 (c) Bonds or bond anticipation notes may be issued as provided by
16 board resolution, in one or more series and shall (1) be dated; (2) bear
17 interest at the prescribed rate per year or within the maximum rate; (3)
18 be in a certain denomination or form, either coupon or registered; (4)
19 carry the conversion or registration provisions; (5) have rank or
20 priority; (6) be executed in a certain manner and form; (7) be payable
21 from the sources in the medium of payment and place or places inside or
22 outside the state; (8) be subject to authentication by a trustee or
23 fiscal agent; and (9) be subject to terms of redemption, with or without
24 premium. Bond anticipation notes mature at a time determined by the
25 authority. Bonds mature at a time, not exceeding 50 years from the date
26 of their issuance, as determined by the authority. Before the prepara-
27 tion of definitive bonds or bond anticipation notes, the authority may
28 issue interim receipts or temporary bonds or bond anticipation notes,
29 without or without coupons, exchangeable for bonds or bond anticipation

1 notes when the definitive bonds or bond anticipation notes have been
2 executed and are available for delivery.

3 (d) Bond or bond anticipation notes may be sold in the manner, on
4 the terms, and at the price the authority determines.

5 (e) If an officer whose actual or facsimile signature appears on
6 any bonds or notes or coupons attached to them ceases to be an officer
7 before the delivery of the bond, note or coupon, his signature is valid
8 as if he had remained in office until delivery.

9 (f) In a resolution by the board of commissioners of the authority
10 authorizing or relating to the issuance of bonds or bond anticipation
11 notes, the authority may, with the holders of the bonds or bond antici-
12 pation notes,

13 (1) pledge to any payment or purpose all or any part of
14 revenues to which it is or will be entitled to and similarly pledge the
15 money derived from the revenues, and the proceeds of any bonds or notes;

16 (2) covenant against pledging all or any part of its re-
17 venues, or against permitting or suffering a lien on the revenues or its
18 property;

19 (3) covenant as to the use and disposition of any and all
20 payments of principal or interest received by the authority on mortgage
21 loans, construction loans or other investments held by the authority;

22 (4) covenant as to establishment of reserves or sinking funds
23 and the making of provision for and the regulation and disposition of
24 the reserves or sinking funds;

25 (5) covenant with respect to or against limitations on a
26 right to sell or otherwise dispose of property of any kind;

27 (6) covenant as to bonds and notes to be issued, and their
28 limitations, terms and conditions, and as to the custody, application
29 and disposition of the proceeds of the bonds and notes;

1 (7) covenant as to the issuance of additional bonds or notes,
2 or as to limitations on the issuance of additional bonds or notes and
3 the incurring of the other debts;

4 (8) covenant as to the payment of the principal of or inter-
5 est on the bonds or notes, as to the sources and methods of the payment,
6 as to the rank or priority of the bonds or notes with respect to a lien
7 or security, or as to the acceleration of the maturity of the bonds or
8 notes;

9 (9) provide for the replacement of lost, stolen, destroyed or
10 mutilated bonds or notes;

11 (10) covenant against extending the time for the payment of
12 bonds or notes or interest on the bonds or notes;

13 (11) covenant as to the redemption of bonds or notes and
14 privileges of their exchange for other bonds or notes of the authority;

15 (12) covenant to create or authorize the creation of special
16 funds of money to be held in pledge or otherwise for operation expenses,
17 payment or redemption of bonds or notes, reserves or other purposes, and
18 as to use and disposition of the money held in the funds;

19 (13) establish the procedure, if any, by which the terms of
20 any contract or covenant with or for the benefit of the holders of bonds
21 or notes may be amended or abrogated, the amount of bonds or notes the
22 holders of which must consent to amendment or abrogation, and the manner
23 in which the consent may be given;

24 (14) covenant as to the custody of any of its properties or
25 investments, their safekeeping and insurance, and the use and disposi-
26 tion of insurance money;

27 (15) covenant as to the time or manner of enforcement or
28 restraint from enforcement of any rights of the corporation arising by
29 reason of or with respect to nonpayment of principal or interest of any

1 mortgage loans or construction loans;

2 (16) provide for the rights and liabilities, powers and duties
3 arising upon the breach of a covenant, condition or obligation, and to
4 prescribe the events of default and the terms and conditions upon which
5 any or all of the bonds, notes or other obligations of the authority
6 become or may be declared due and payable before maturity and the terms
7 and conditions upon which such a declaration and its consequences may be
8 waived;

9 (17) vest in a trustee or trustees inside or outside the state
10 property, rights, powers and duties in trust as the authority may
11 determine, which may include any or all of the rights, powers and duties
12 of a trustee appointed by the holders of bonds or notes, and to limit or
13 abrogate the right of the holders of bonds or notes of the authority to
14 appoint a trustee under secs. 600 - 690 of this chapter or limit the
15 rights, powers and duties of the trustee;

16 (18) pay the costs or expenses incident to the enforcement of
17 the bonds or notes or of the provisions of the resolution or of a
18 covenant or agreement of the authority with the holders of its bonds or
19 notes;

20 (19) agree with a corporate trustee which may be a trust
21 company or bank having the powers of a trust company inside or outside
22 the state as to the pledging or assigning of revenues or funds to which
23 or in which the authority has any rights or interest; and further pro-
24 vide for other rights and remedies exercisable by the trustee as may be
25 proper for the protection of the holders of any bonds or notes of the
26 authority and not otherwise in violation of law and may provide for the
27 restriction of the rights of an individual holder of bonds or notes of
28 the authority;

29 (20) appoint and provide for the duties and obligations of a

1 paying agent or other fiduciary, by resolution, inside or outside the
2 state;

3 (21) limit the rights of the holders of bonds or notes to
4 enforce a pledge or covenant securing bonds or notes;

5 (22) make covenants other than expressly authorized in this
6 section, of like or different character, and to make covenants as may be
7 necessary or desirable, to better secure bonds or notes or which, in the
8 discretion of the authority, will tend to make bonds or notes more
9 marketable, notwithstanding the fact that the covenants are not enumer-
10 ated in this section.

11 Sec. 16.10.640. VALIDITY OF PLEDGE. The pledge of assets or
12 revenues of the authority to the payment of the principal or interest of
13 obligations of the authority is valid and binding from the time the
14 pledge is made and assets or revenues pledged are immediately subject to
15 the lien of the pledge without physical delivery or further action. The
16 lien of a pledge is valid and binding against all parties having claims
17 of any kind in tort, contract or otherwise against the authority,
18 irrespective of whether those parties have notice of the lien of the
19 pledge. Nothing prohibits the authority from selling assets subject to
20 a pledge, except that a sale may be restricted by the trust agreement or
21 resolution providing for the issuance of the obligations.

22 Sec. 16.10.650. REMEDIES. A holder of obligations or coupons
23 attached to them issued under the provisions of secs. 600 - 690 of this
24 chapter, and a trustee under a trust agreement or resolution authorizing
25 the issuance of the obligations, if not restricted by the trust agree-
26 ment or resolution, either at law or in equity, may enforce all rights
27 granted under the coupons or under the trust agreement or resolution, or
28 under any other contract executed by the authority under secs. 600 - 690
29 of this chapter, and may enforce and compel the performance of all

1 duties required by secs. 600 - 690 of this chapter or by the trust
2 agreement or resolution to be performed by the authority or by an offi-
3 cer of it.

4 Sec. 16.10.660. NEGOTIABLE INSTRUMENTS. All obligations and
5 interest coupons attached to the obligations are negotiable instruments
6 under the laws of this state, subject only to applicable registration
7 provisions.

8 Sec. 16.10.670. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
9 issued under the provisions of secs. 600 - 690 of this chapter are
10 securities in which all public officers and public bodies of the state
11 and its political subdivisions, all insurance companies, trust com-
12 panies, banking associations, investment companies, executors, adminis-
13 trators, trustees and other fiduciaries may properly and legally invest
14 funds, including capital in their control or belonging to them. These
15 obligations may be deposited with the state or municipal officer of an
16 agency or political subdivision of the state for any purpose for which
17 the deposit of bonds, notes or obligations of the state is authorized by
18 law.

19 Sec. 16.10.680. REFUNDING OBLIGATIONS. (a) The authority may
20 provide for the issuance of refunding obligations for the purpose of re-
21 funding obligations then outstanding which have been issued under the
22 provisions of secs. 600 - 690 of this chapter, including the payment of
23 redemption premium on them and interest accrued or to accrue to the date
24 of redemption of the obligations. The issuance of the obligations, the
25 maturities and other details of them, the rights of the holders of them,
26 and the rights, duties and obligations of the authority in respect of
27 them are governed by the provisions of secs. 600 - 690 of this chapter
28 which relate to the issuance of appropriate obligations.

29 (b) Refunding obligations may be sold or exchanged for outstanding

1 obligations issued under secs. 600 - 690 of this chapter. If sold, the
2 proceeds may be applied, in addition to other authorized purposes, to
3 the purchase, redemption or payment of the outstanding obligations.
4 Pending the application of the proceeds of any such refunding obli-
5 gations, with any other available funds, to the payment of the principal
6 (accrued interest and any redemption premium on the obligations being
7 refunded, and, if so provided or permitted in the resolution authorizing
8 the issuance of the refunding obligations or in the trust agreement
9 securing them, to the payment of any interest on the refunding obliga-
10 tions and any expenses in connection with the refunding), the proceeds
11 may be invested in direct obligations of, or obligations the principal
12 of and the interest on which are unconditionally guaranteed by, the
13 United States of America which mature or which will be subject to re-
14 demption, at the option of the holders of them, not later than the
15 respective dates when the proceeds, together with the interest accruing
16 on them, will be required for the purposes intended.

17 Sec. 16.10.690. CREDIT OF STATE NOT PLEDGED. Obligations issued
18 under the provisions of secs. 600 - 690 of this chapter do not consti-
19 tute a debt, liability or obligation of the state or of any other
20 political subdivision of the state or a pledge of the faith and credit
21 of the state or a political subdivision of the state but are payable
22 solely from the revenues or assets of the authority. Each obligation
23 issued under secs. 600 - 690 of this chapter shall contain on its face a
24 statement that the authority is not obligated to pay it nor the interest
25 on it except from the revenues or assets pledged for it and that neither
26 the faith and credit nor the taxing power of the state or of a political
27 subdivision of the state is pledged to the payment of the principal of
28 or interest on the obligation.

29 * Sec. 16. Notification, public meeting and voting procedures instituted

1 before the effective date of this Act that are substantially in compliance
2 with AS 16.10.530(e) shall be considered to constitute compliance with this
3 Act, and are ratified upon the effective date of this Act.

4 * Sec. 17. AS 16.10.400(d), 16.10.520(b) and 16.10.530(b) are repealed.

5 * Sec. 18. This Act takes effect immediately in accordance with AS 01.10.
6 070(c).

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