



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – SECOND SESSION
THE NATIONAL ASSEMBLY
VOTES AND PROCEEDINGS
TUESDAY, OCTOBER 16, 2018

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **COMMUNICATIONS FROM THE CHAIR**

The following Communications were issued by the Speaker –

(i) Communication on Visiting Delegation from the Assembly of the Republic of Mozambique

“Honourable Members, I wish to introduce to you a delegation from the Assembly of the Republic of Mozambique. The delegation, seated at the Speaker’s Row, comprises of Members of the Commission of Public Administration and Local Government of the Assembly. They are-

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|-------|--|--------------|
| (i) | H.E. Lucas Chomera Jeremias, MP | - President |
| (ii) | H.E. Antonio Pedro Muchanga, MP | - Rapporteur |
| (iii) | H.E. Martinha Januario Benfica, MP | - Member |
| (iv) | H.E. Gonçalves Maceda, MP | - Member |
| (v) | H.E. Elisa Silvestre Isabel Cipriano, MP | - Member |
| (vi) | H.E. Manuel Jozi De Souza, MP | - Member |
| (vii) | H.E. Alberto Jumulate, MP | - Member |

The delegation is also accompanied by Mr. Emidio Constantino Guambe, Chief of Staff of the Commission, Mr. Dercio Alfazema and Ms. Lorena Mazive from the Institute of Multiparty Democracy, and Mr. Armenio Machiana, a translator.

Honourable Members, the delegation is in the country to engage and share experiences with their counterparts on matters of decentralization, as Mozambique considers a review of their current model of governance. During their visit they have met with the National Assembly Departmental Committee on Administration and National Security as well as the Senate Committee on Devolved Government, among other agencies.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the Country. I thank you!”

(ii) Guidance on Voting during Second Reading of the Constitution of Kenya (No.2) Bill (National Assembly Bill No. 5 of 2018)

“Honourable Members, I wish to give guidance relating to the voting anticipated tomorrow afternoon on the Constitution of Kenya (Amendment) (No. 2) Bill (National Assembly Bill No. 5 of 2018) sponsored by the Hon. Chrisantus Wamalwa, MP.

Honourable Members, as you may recall from my communication last week, the Second Reading of the Bill requires two-thirds of Members in the National Assembly voting in the affirmative, as contemplated under Article 256 of the Constitution.

In this regard, may I remind you that Standing Order 70(1) provides, and I quote-
“*Unless the Speaker, for the convenience of the House otherwise directs, voting on a division in the House shall be by electronic voting.*”

I therefore wish to remind all those desiring to vote on the Bill tomorrow, to carry their cards with them to facilitate this process.”

I thank you!”

5. MESSAGES

The Speaker conveyed the following Message from the Senate: -

Passage of the County Boundaries Bill (Senate Bill No. 6 of 2017) and the Office of the County Attorney Bill (Senate Bill No. 3 of 2018)

“Honourable Members, Standing Order 41(4) requires the Speaker to report to the House any Message(s) received from the Senate at the first convenient opportunity. In this regard, I wish to report to the House that on Thursday, October 11, 2018, I received two Messages from the Senate regarding the passage of two Bills on Wednesday, October 3, 2018.

The First Message relates to the passage of the County Boundaries Bill (Senate Bill No. 6 of 2017). Among other objectives, the Bill seeks “*to provide a mechanism for the resolution of county boundaries; to give effect to Article 188 of the Constitution by providing for the procedure for alteration of county boundaries; and to provide for the establishment of an independent county boundaries commission.*”

Honourable Members, the second Message is conveying the passage of the County Attorney Bill (Senate Bill No. 3 of 2018). The Bill seeks “*to provide for the functions and powers of the County Attorney; and the discharge of duties and the exercise of powers of the County Attorney.*”

Honourable Members, Standing Order 143(1) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate referring Bills to the National Assembly. Accordingly, I direct that the two Bills be read a First Time at the next Sitting.

Honourable Members, paragraph (2) of Standing Order 143 provides that –

*“Following First Reading, the Speaker shall, within reasonable time, pronounce his or her **opinion** contemplated under Article 114(2) of the Constitution.”*

The opinion envisioned under Standing Order 143(2) is a pronouncement, by the Speaker, as to whether a Bill originating in the Senate is a ‘*Money Bill*’ in the terms of Article 114 of the Constitution. In this regard, I have requested the Clerk of the National Assembly to refer the two Bills to the Parliamentary Budget Office to offer advice that will enable the Speaker to form the opinion contemplated in the aforementioned Standing Order. Thereafter, I shall guide the House accordingly on how to proceed with the consideration of the said two Bills from the Senate.

I thank you.”

6. PETITIONS

The following Petitions were conveyed: -

- (i) Petition conveyed by the Speaker regarding enactment of legislation for implementation of African Union Resolutions

“Honourable Members,

Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition signed by one David Gesicho, a Kenya citizen, regarding enactment of legislation to provide for implementation of the resolutions of the African Union.

Honourable Members,

The Petitioner contends that over the years there has been emphasis by successive regimes in power in the Republic of Kenya on economic development at the expense of human development exemplified in recent times by the inordinately high allocation of resources to the Health and Agriculture sectors that have a direct bearing on human development.

Honourable Members,

The Petitioner therefore prays that the National Assembly initiates the process of enacting legislation with regard to implementation of resolutions of the African Union in the Republic of Kenya and in particular, concerning the proposed formula for division and allocation of revenue towards the realization of the Sustainable Development Goals. The proposed allocations are as follows: -

1. Fifteen per cent to the Health Sector;
2. Twenty per cent to Agriculture including water, sanitation and irrigation;
3. Twenty per cent to the Education sector;
4. Ten per cent to the shelter/housing sector; and
5. Ten per cent to the security sector.

Honourable Members,

Pursuant to the provisions of Standing Order 227, this Petition therefore stands committed to the Departmental Committee on Defence and Foreign Relations for consideration. I wish to inform the House that this Petition was submitted in the 11th Parliament but the Committee had not concluded its consideration by the time the House adjourned sine die. The Committee is requested to consider the Petition and report its findings to the House and the Petitioner in accordance with Standing Order 227(2).

I thank you!"

- (ii) Petition by the Member for Embakasi West Constituency (Hon. George Theuri) on behalf of the residents of Embakasi West Constituency regarding regularization of various Government offices for efficient service delivery in Embakasi West Constituency.

7. PAPERS LAID

The following Papers were laid on the Table –

- (i) The Annual Public Debt Management Report for the financial year 2017/2018 from the National Treasury and Planning
- (ii) The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2017 and the certificates therein:-
 - a) Kenyatta University;
 - b) Agricultural Sector Development Support Programme;
 - c) Bukura Agricultural College;Kenya Dairy Board;

- d)
- e) Agricultural Information Resource Centre Revolving Fund Account;
- f) Small-Scale Irrigation and Value Addition Project;
- g) Kenya National Shipping Line Limited;
- h) Information Communication Technology Authority;
- i) Revenue Statement from the State Department of Agriculture;
- j) Regional Pastoral Livelihood Resilience Project;
- k) Kaimosi Friends University College;
- l) The State Department of Fisheries and the Blue Economy Revenue Statements;
- m) Kenya Universities and Colleges Central Placement Service; and
- n) Kenya Institute of Curriculum Development.

(The Leader of the Majority Party)

8. QUESTIONS

The following Questions were made to various Ministries–

- (i) Question 044/2018 by the Member for Rabai (Hon. Kamoti Mwamkale) regarding Regulations on Wages published vide legal Notice No. L.N. 112 of 2017 of 16th May, 2017. Question referred to the Departmental Committee on Labour and Social Welfare.
- (ii) Question 045/2018 by the Member for Oljororok (Hon. Michael Muchira) regarding youth access to employment. Question referred to the Departmental Committee on Labour and Social Welfare.
- (iii) Question 046/2018 by the Member for Loima (Hon. Jeremiah Lomorukai) regarding peaceful co-existence among communities in Turkana, West Pokot, Baringo and Samburu Counties. Question referred to the Departmental Committee on Administration and National Security.
- (iv) Question 048/2018 by the Member for Ikolomani (Hon. Bernard Shinali) regarding criteria for allocation of infrastructure development funds to secondary, colleges and universities. Question referred to the Departmental Committee on Education and Research.
- (v) Question 049/2018 by the Member for Ikolomani (Hon. Bernard Shinali) regarding Acacia Mining Company. Question referred to the Departmental Committee on Environment and Natural Resources.
- (vi) Question 050/2018 by the Member for Loima (Hon. Jeremiah Lomorukai) regarding the national government's support to palm tree farming in Turkana country. Question referred to the Departmental Committee on Agriculture and Livestock.
- (vii) Question 051/2018 by the Member for Loima (Hon. Jeremiah Lomorukai) regarding the implementation status of the provisions of Section 28(1) of the Basic Education Act regarding the right to free and compulsory basic education. Question referred to the Departmental Committee on Education and Research.
- (viii) Question 052/2018 by the Member for Ikolomani (Hon. Bernard Shinali) regarding gazettment of regulations on human trafficking. Question referred to the Departmental Committee on Labour and Social Welfare.

- (ix) Question 053/2018 by the Member for Nakuru Town East (Hon. David Gikaria) regarding payment of retirement and gratuity benefits to one David Gicheru Kinuthia. Question deferred.

9. THE COUNTY GOVERNMENT (REVENUE RAISING PROCESS) BILL (NATIONAL ASSEMBLY BILL NO.24 OF 2018)

(The Leader of the Majority Party)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

10. THE SPORTS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.25 OF 2018)

(The Leader of the Majority Party)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

11. MOTION – REPORT OF THE ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY

Motion made and Question proposed -

THAT, this House notes the Report of the Departmental Committee on Lands delegation to the 2018 Annual World Conference on Land and Poverty held in Washington DC, United States of America from 19 to 23 March, 2018, laid on Table of the House on Thursday, June 07, 2018.

(Leader of the Delegation & Vice-Chairperson, Departmental Committee on Lands)

Debate arising;

Rising in his place on a Point of Order pursuant to Standing Order 95, the Member for Kipipiri Constituency (Hon. Amos Kimunya) claimed to move that, the Mover be called upon to reply;

The Speaker, having acceded to the claim, put the Question that the Mover be called upon to reply;

Question for Reply put and agreed to;

Mover replied;

Question on the Motion deferred.

12. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Deputy Speaker in the Chair

The County Governments Retirement Scheme Bill (National Assembly Bill No.10 of 2018)

Clause 3 - agreed to.

Clause 4 - amendment proposed –

THAT, clause 4(2) of the Bill be amended by deleting the word “lending” appearing in paragraph (d) and substituting the word “investing”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to.

Clause 5 - amendment proposed –

THAT, clause 5 of the Bill be amended by inserting the word “county” immediately before the words “public officer.”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to.

Clause 6 - amendment proposed –

THAT, the Bill be amended in clause 6 by—

(a) deleting sub clause (2) and substituting therefor the following sub clauses-

(2) The Board shall consist of the following members-

- (a) the Chairperson appointed by the Cabinet Secretary from amongst the Trustees appointed under paragraph (d),(e),(f) and (g);
- (b) the Principal Secretary responsible for matters relating to finance or his representative;
- (c) the Principal Secretary responsible for matters relating to devolution or his representative;
- (d) a representative of the Council of Governors;
- (e) a representative of the County Public Service Boards;

- (f) three representatives of the County Assembly Service Boards, one of who shall be of the opposite gender;
- (g) two persons nominated by the trade unions representing county public servants Boards, one of who shall be of the opposite gender;
- (h) the Chief Executive officer appointed under section 18, who shall be the secretary.

(2a) The Council of Governors shall convene a meeting of the respective nominating bodies for the purpose of nominating the representatives under subsection 2 (e) and (g).

(2b) The Speaker of the Senate shall convene a meeting of the County Assembly Service Boards for the purpose of nominating the representatives under subsection 2 (f).

(b) deleting sub clause (3) and substituting therefor the following new sub clause—

(3) The vice-chairperson of the Board shall be elected by the Trustees from among their number.

(c) inserting the following new clause immediately after sub clause (4)—

(4a) The Cabinet Secretary shall ensure that not more than two thirds of the members of the Board is of the same gender.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to.

Clauses 7, 8, 9, 10, 11, 12 & 13 - agreed to.

Clause 14 - amendment proposed –

THAT, clause 14(1) of the Bill be amended by deleting the word “Fund” and substituting the word “Scheme.”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 14 - as amended agreed to.

Clauses 15, 16 & 17 - agreed to.

Clause 18 - amendment proposed –

THAT, clause 18 (3) the Bill be amended by—

- (a) deleting the word “Master’s” appearing in paragraph (b); and
- (b) deleting paragraph (d).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to.

Clauses 19, 20, 21 & 22 - agreed to.

Clause 23 - amendment proposed –

THAT, the Bill be amended by inserting the following new subsection immediately after subsection 1-

- (1A) The administrator shall be an employee of the Board.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 23 - as amended agreed to.

Clause 24 - amendment proposed –

THAT, clause 24 of the Bill be amended by—

- (a) deleting sub clause (3) and substituting therefor the following new sub clause—

(3) Subject to such guidelines as the Board may issue, in consultation with the members and sponsors of the Scheme, a member of the Scheme may make additional contributions to the Scheme; and

- (b) deleting sub clause (4).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 - as amended agreed to.

Clause 25 - agreed to.

Clause 26 - amendment proposed –

THAT, clause 26 Bill be amended—

(a) by renumbering clause 26 as 26(1); and

(b) in sub clause (3)(b) by deleting the words “fifty per cent of his or her sponsor’s contribution” and substituting therefor the words “the sponsor’s contribution as may be prescribed by the Retirement Benefits Authority”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 26 - as amended agreed to.

Clause 27 - amendment proposed –

THAT, clause 27(2) of the Bill be amended by deleting paragraph (d).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 27 - as amended agreed to.

Clause 28 - amendment proposed –

THAT, clause 28(2) of the Bill be amended by deleting paragraph (d).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 28 - as amended agreed to.

Clauses 29, 30, 31, 32, 33, 34, 35, 36, 37, 38. 39, 40, 41, 42, 43, 44, 45, 46, 47 & 48 - agreed to.

Clause 49 - amendment proposed –

THAT, clause 49(4) of the Bill be amended by deleting the words “five hundred thousand shillings, or in the case of a natural person, to imprisonment for a term not exceeding three years, or to both” and substituting therefor the words “five million shillings, or in the case of a natural person, to imprisonment for a term not exceeding two years, or to both”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 49 - as amended agreed to.

Clauses 50 & 51 - agreed to.

Clause 52 - deletion proposed –

THAT, the Bill be amended by deleting clause 52.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 52 - deleted

Clause 53 - amendment proposed –

THAT, the Bill be amended in clause 53 by inserting the following subsection immediately after subsection (2)-

(3) The Laptrust (Umbrella) Retirement Fund Trust Deed and Rules registered under the Retirement Benefits Authority Act are revoked.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 53 - as amended agreed to.

Clause 54 - amendment proposed –

THAT, the clause 54 of the Bill be amended by deleting the word “shall” and substituting therefor the word “may.”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 54 - as amended agreed to.

Clause 55 - agreed to.

Clause 56 - amendment proposed –

THAT, the Bill be amended in clause 56 by-

(a) deleting subsection (2) and substituting therefor the following new paragraphs-

(2) The Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund shall, on the commencement date remain closed Funds to new entrants and shall ensure the preservation of all accrued rights of members.

(3) Subject to subsection (2), the closed funds shall continue paying any pensions and benefits as and when they fall due for a maximum period of five years from the commencement date.

(4) The provisions of section 54 A shall apply to any pension and benefits which shall not have been paid out of the closed Funds at the end of the fifth year from the date of commencement date.

(b) renumbering the existing subsection (3) to subsection (5).

(c) inserting the following new sub clause immediately after sub clause (5)—

(6) The State Corporations Advisory Committee shall, within five years from the commencement of this Act, ensure the implementation of this section.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 56 - as amended agreed to.

Clause 57- - amendment proposed –

THAT, clause 57 of the Bill be amended—

(a) by inserting the words “Subject to section 55” immediately before the words “Any Eligible employee”; and

(b) renumbering sub clause (4) as (2).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 57 - as amended agreed to.

New Clause 54A proposed –

THAT the Bill be amended by inserting the following clause immediately after clause 54-

Transition of closed funds to the Scheme.

54A. (1) The members of the Local Authorities Provident Fund and the Laptrust (Umbrella) Retirement Fund shall be transitioned into the Scheme.

(2) The funds, assets and other property, movable and immovable which immediately before the commencement date were held by or on behalf of the Local Authorities Provident Fund and the Laptrust (Umbrella) Retirement Fund shall vest in the Scheme.

(3) All the records of the Local Authorities Provident Fund and the Laptrust (Umbrella) Retirement Fund shall be transferred to the Scheme administrator.

(4) All rights, liabilities and duties whether arising under any written law or otherwise, which immediately before the commencement date were accruing, imposed or enforceable by or against the Local Authorities Provident Fund and the Laptrust (Umbrella) Retirement Fund shall vest in, be imposed on, or be enforceable against the Scheme.

(5) Any suit or legal proceedings by or against the Local Authorities Provident Fund and the Laptrust (Umbrella) Retirement Fund shall continue as if they were instituted by the Scheme and no such suit, action or legal proceedings shall abate or be terminated by the virtue of the transition of the schemes.

(6) Subject to section 40, the annual estimates approved for the Local Authorities Provident Fund and the Laptrust (Umbrella) Retirement Fund for the financial year in which this Act comes into operation shall be considered to be the annual estimates of the Scheme for the remainder of that financial year but those estimates may be varied by the Cabinet Secretary.

(Chairperson, Departmental Committee on Finance and National Planning)

Motion made and Question proposed –

THAT, the New Clause 54A be read a Second Time
Debate arising;

Question put and agreed to.

Question proposed –

THAT, the New Clause 54A be part of the Bill

Debate arising;

Question put and agreed to;

Motion made and Question –

New Clause 54A - Agreed to and Introduced

New Clause 58 proposed –

THAT, the Bill be amended by inserting the following new clause immediately after clause 57-

Date of
transition.

58. The provisions of sections 53 and 54A shall come into effect at the end of five years from the commencement date

(Chairperson, Departmental Committee on Finance and National Planning)

Motion made and Question proposed –

THAT, the New Clause 58 be read a Second Time
Debate arising;

Question put and agreed to.

Question proposed –

THAT, the New Clause 58 be part of the Bill

Debate arising;

Question put and agreed to;

New Clause 58 - Agreed to and Introduced

Schedule - amendment proposed –

THAT, clause Schedule to the Bill be amended—

(a) by deleting section 2 and substituting therefor the following new paragraph-

(1) The quorum of a meeting of the Board shall be five Trustees present and voting provided that at least two trustees appointed under section 6(b), (c), (d), (e) or (f) and at least two Trustees appointed under section 6 (g) are present.

(2) For special meetings, the quorum shall be six Trustees present and voting provided that at least two trustees appointed under section 6b), (c), (d), (e) or (f) and at least two Trustees appointed under section 6(g) are present.

(b) in section 5(4) by deleting the word “seven” and substituting therefor the word “two.”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Schedule - as amended agreed to.

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended by deleting the definition of “existing scheme” and substituting therefor the following new definition—

“existing scheme” means the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust(Umbrella)Retirement Fund.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to.

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments.

13. HOUSE RESUMED - the Third Chairperson in the Chair

The County Governments Retirement Scheme Bill (National Assembly Bill No.10 of 2018)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said Report

(The Leader of the Majority Party)

Question of the Motion deferred.

14. MOTION - REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND FOR CONSTITUENCIES IN NAIROBI CITY COUNTY

Motion made –

THAT, this House adopts the Second Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Nairobi City County for the Financial Years 2013/14, 2014/15 and 2015/16, laid on the Table of the House on Wednesday, October 03, 2018.

(Chairperson, Special Funds Accounts Committee)

And the time being Seven O'clock, the Third Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

15. HOUSE ROSE - at Seven O'clock

MEMORANDUM

The Speaker will take the Chair on
Wednesday, October 17, 2018 at 9.30 a.m.

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