Department of Legislative Services

Maryland General Assembly 2002 Session

FISCAL NOTE Revised

Senate Bill 265 (Senator Sfikas)

Education, Health, and Environmental Affairs

Commerce and Government Matters

State Government - Equal Access to Public Services - Individuals with Limited English Proficiency

This bill requires State agencies to take reasonable steps to provide equal access to public services for individuals with limited English proficiency. Equal access is defined as the provision of oral language services for individuals who cannot adequately understand or express themselves in spoken or written English and the translation of vital documents ordinarily provided to the public into any language spoken by any limited English proficient population that constitutes 3% of the overall State population within the geographic area served by a local office of a State program as measured by the U.S. Census. The Department of Human Resources, in consultation with the Office of the Attorney General, must provide central coordination and technical assistance to programs. The State agencies affected by the bill are phased-in over four years.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: State expenditures could increase by \$290,200 in FY 2003 to provide policy development, training, oral language services, and document translations. Future year expenditures reflect the phase-in of affected State agencies. Revenues would not be affected.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	290,200	465,600	585,400	780,900	512,500
Net Effect	(\$290,200)	(\$465,600)	(\$585,400)	(\$780,900)	(\$512,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Analysis

Current Law: Pursuant to the legislation, vital documents does not include applications and examinations related to the licensure, certification, or registration under the Health Occupations Article, Financial Institutions Article, Business Occupations and Professions Article, and Business Regulation Article within the jurisdiction of the Department of Health and Mental Hygiene and the Department of Labor, Licensing, and Regulation. The Secretary of Health and Mental Hygiene and the Secretary of Labor, Licensing, and Regulation must consider the impact on individuals with limited English proficiency and on the operations of State government that would likely result from an alteration of the definition of vital documents to include applications and examinations related to an individual's licensure, certification, or registration with the departments. The departments must report to the General Assembly on this matter by July 1, 2005.

State and local government agencies are not required to translate forms and documents in another language; however, many government publications are provided in other languages, especially Spanish, to assist individuals who cannot speak English.

Background: With almost 20,000 immigrants entering Maryland each year, the State's diversity has increased dramatically. Recent immigrants represent 179 countries and 82 foreign languages. Based on the 2000 Census, 13% of Marylanders over the age of five speak a language other than English at home. Approximately 4% of Marylanders speak Spanish, 4% speak other Indo-European languages, 3% speak an Asian/Pacific Islander language, and 1% speak other languages. **Exhibit 1** shows the languages spoken at home by Marylanders based on the 2000 Census Supplemental Survey. The exhibit also includes information on the percentage of individuals who cannot speak English very well.

Exhibit 1
Languages Spoken at Home in Maryland – Five Years Old and Over

Language	Individuals who Speak Language	Percent of Total	LEP Individuals	Percent LEP*	
English Only	4,196,984	87.3%	N/A	N/A	
Spanish	202,509	4.2%	95,508	46.2%	
Other Indo-European	204,304	4.2%	62,594	30.6%	
Asian/Pacific Islander	141,107	2.9%	71,742	50.8%	
Other	63,193	1.3%	13,543	21.4%	
* Percentage of individuals who speak language that are limited English proficient.					

Statewide, almost 250,000 Marylanders are limited English proficient (cannot speak English very well), representing 5% of the State's population. Of individuals who are SB 265 / Page 10

limited English proficient, 39% speak Spanish, 30% speak an Asian/Pacific Islander language, 26% speak an Indo-European language besides Spanish, and 6% speak other languages. Over 46% of Spanish speaking Marylanders are limited English proficient and 31% of individuals who speak an Indo-European language besides Spanish are limited English proficient. For individuals who speak an Asian/Pacific Islander language, 51% are limited English proficient. Based on Census projections, in the next five years the Asian/Pacific Islander population will increase by 16.6% and the Hispanic population will increase by 20.6%.

Sixty-one percent of limited English proficient individuals reside in Montgomery and Prince George's counties. About 25% of limited English proficient individuals reside in Baltimore City and Anne Arundel and Baltimore counties. The remaining 19 counties account for less than 15% of limited English proficient individuals. In Montgomery County nearly 12% of county residents are limited English proficient, the highest percentage in the State.

Federal Requirements Under Title VI of the Civil Rights Act of 1964

Federal requirements are based on Title VI of the Civil Rights Act of 1964 that was established to eliminate barriers based on race, color, and national origin in federal assisted programs or activities. According to the U.S. Department of Justice, in certain circumstances, failing to ensure that LEP individuals can effectively participate in or benefit from federally assisted programs and activities or imposing additional burdens on LEP persons is national origin discrimination. The federal government has interpreted Title VI of the Civil Rights Act of 1964 to require oral language interpretation and translation of written materials where the population of LEP individuals in the eligible population reaches certain levels.

In August 2000, the President signed Executive Order 13166 that requires every federal agency that provides financial assistance to non-federal entities (State and local governments) to establish guidelines on how entities can provide meaningful access to LEP individuals in compliance with Title VI of the Civil Rights Act of 1964. The U.S. Department of Justice submitted guidelines on January 16, 2001 that included a four-factor test to decide what steps to take to provide meaningful access to programs and activities for LEP individuals.

The federal Office of Management and Budget (OMB) released a report on March 14, 2002 that assesses the total costs and benefits of providing language-assistance services under the Executive Order. According to the report, federal agencies are in the process of implementing the Executive Order. Currently, ten federal agencies have published LEP guidelines including: Department of Education, Department of Justice, Department of Health and Human Services, Department of Labor, and the Department of Transportation. State programs receiving federal funds will be expected to comply with the federal requirements on language assistance. According to a March 8, 2002 letter by the Office of the Attorney General, the failure to provide financing does not relieve affected State

agencies of their responsibilities to comply with the federal law, regulations, and guidelines.

State Fiscal Effect: This bill requires State agencies to provide oral language services to assist individuals with limited English proficiency. For State programs operating in Montgomery and Prince George's counties, State agencies would be required to translate into Spanish vital documents ordinarily provided to the public. Montgomery and Prince George's counties are the only local jurisdictions in which over 3% of the population consists of Spanish speaking individuals who are limited English proficient.

State expenditures to expand oral language and translation services to cover State programs could increase by \$290,200 in fiscal 2003 and \$780,900 in fiscal 2006. Beginning in fiscal 2007, when training programs are completed, State expenditures would increase by \$512,500. This estimate is based on existing State costs for interpreter and translation services, the recommendations from the National Foreign Language Center, and the phase-in of State departments and agencies. However, the actual impact could vary depending upon the need for interpreter services and translated forms and documents. The demand for these services at each State agency is not known at this time.

Phase-in of State Agencies

Pursuant to this legislation, 34 State agencies, departments, and commissions would have to take reasonable steps to provide equal access to public services to individuals with limited English proficiency. **Exhibit 2** lists the agencies and the time period during which they must comply with the bill's provisions.

Exhibit 2 Equal Access Compliance Deadline for State Agencies

<u>July 1, 2003</u>	<u>July 1, 2004</u>	<u>July 1, 2005</u>	<u>July 1, 2006</u>
Human Resources	Aging	Comptroller	Agriculture
Labor, Licensing, and Regulation	Public Safety and Corrections	Housing and Community Development	Business and Economic Development
Juvenile Justice	Transportation (MDOT)	Natural Resources	Veteran Affairs
Health and Mental Hygiene	Human Relations Commission	Maryland State Department of Education	5 independent agencies, boards, and commissions
Workers' Compensation Commission	State Police	Attorney General	Environment
Commission	5 independent agencies, boards, and commissions	Maryland Transit Administration (MDOT)	
		5 independent agencies, boards, and commissions	

Other State departments, agencies, or programs not listed in Exhibit 2 must monitor their operations to determine if reasonable steps are needed to achieve equal access to public services for individuals with limited English proficiency.

Central Coordination – Department of Human Resources

Administrative costs within the Department of Human Resources to provide central coordination and technical assistance to programs could cost approximately \$94,100 in fiscal 2003, which accounts for a three month start-up delay. The estimate reflects the cost of two new positions (an administrator, and administrative officer) to coordination services and assist State agencies with developing policies to ensure that public services are being provided without delay to individuals who are limited English proficient. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect: (1) full salaries with a 2.5% increase in fiscal 2004 and a 3.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

State Policy and Training Costs

Policy development and training costs could total approximately \$700,000 over a four-year period for ten cabinet departments and 19 agencies, boards, and commissions with limited English proficient customers that have not developed policies or conducted training programs for their employees. Policy development and training costs would total \$50,000 for larger cabinet departments and \$10,000 for smaller agencies. This estimate is based on similar costs at the Department of Juvenile Justice which paid the University of Maryland \$55,000 to develop policies for providing services to limited English proficient individuals and to conduct employee training programs. Several cabinet departments, Education (MSDE), Human Resources, Juvenile Justice, and the State Police, have already developed policies and conducted employee training.

Translation of State Forms

The cost to translate vital State forms into Spanish totals approximately \$418,700 over a four-year period and over \$121,800 annually beginning in fiscal 2007. This estimate is based on the following:

- \$60 per page cost to translate vital documents into Spanish.
- An average of 100 pages of vital documents per agency being translated.
- 50 pages of vital documents per agency being issued and updated annually.
- Several larger State agencies would have to translate more than 100 pages of forms and documents.

• According to the NFLC, no more than 40% of any type of public document is available in any language other than English.

The estimate used in the first reader fiscal note (\$130 per page) was taken from a report prepared by the National Foreign Language Center (NFLC) at the University of Maryland that was submitted as part of the center's survey of State agencies required under Chapter 396 of 2001. The revised estimate is based on the State's current contract with Language Link. The first reader fiscal note also assumed that on average 250 pages of State forms and documents per agency would have to be translated into Spanish each year. However, it is now estimated that only 100 pages are for vital documents. This estimate reflects an average number of vitals forms across State agencies with larger agencies having more than 100 pages of forms and smaller boards and commissions having less than 100 pages of forms.

Interpreter Services

The NFLC recommended that State offices make better use of statewide and department-wide resources, such as the State contract with Language Link and the list of interpreters maintained by the Administrative Office of the Courts. However, based on the NFLC report, one-fourth of State offices and employees with limited English proficient clients cannot deliver public services to those clients with the same efficiency with which services are delivered to English speaking individuals. For the last several years, the State has had a contract with an interpreter service to assist State agencies with customers who cannot speak English. Some State agencies, such as the Department of Human Resources, utilize interpreter services outside of the State contract. **Exhibit 3** shows the cost for interpreter services under the State contract since fiscal 1997. **Exhibit 4** shows the utilization rate by agency for interpreter services in fiscal 2000.

Exhibit 3 State Cost for Interpreter Services Under State Contract in Recent Years

<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>	FY 2000	<u>FY 2001</u>
\$123,000	\$139,000	\$144,000	\$186,000	\$197,000

Exhibit 4
State Contract for Interpreter Services
July 1999 – June 2000

Agency	Calls for Service	Duration of Calls (in hours)	Average Duration (in minutes)	Total Cost
District Court	1,619	516	19	\$54,187
DHMH	5,787	695	7	\$72,951
MAIF	1,891	442	14	\$46,381
MVA	606	92	9	\$9,698
Other	<u>160</u>	<u>28</u>	<u>11</u>	\$2,946
Total	10,063	1,773	11	\$186,166

The Department of Budget and Management advises that all State agencies can utilize interpreter services from the State contract. The cost of the interpreter service is \$1.65 per minute for telephone translations and \$60 an hour for on-site translations. It is assumed that the demand for interpreter services will increase due to the bill's provisions. If the demand increases by 100%, State expenditures would increase by approximately \$250,000 annually when the number of State agencies is fully phased-in. However, the need for interpreters could be reduced if each State agency began to hire individuals with bilingual skills.

Total State Costs

As shown in **Exhibit 5**, State expenditures could increase by \$290,200 in fiscal 2003 for central coordination and technical assistance, policy development and training, translation of State forms, and interpreter services at five State agencies. By fiscal 2006, when 34 State departments and agencies are affected, State expenditures could increase by \$780,900. Beginning in fiscal 2007, when training programs are completed, State expenditures could increase by \$512,500.

This estimate reflects the initial costs to provide training to State employees, establish policies and procedures to ensure that LEP residents have access to State services, translate vital State documents into Spanish, and expand existing oral language services. According to the guidelines prepared by the U.S. Department of Health and Human Services, an effective program must include four elements: (1) a thorough assessment of language needs; (2) development of comprehensive written policy on language access; (3) training of staff; and (4) regular oversight of the language assistance program to ensure that LEP individuals have meaningful access to programs. The fiscal note includes the full cost to address each of these elements.

The estimate in the fiscal note may not include the total costs of providing certain ongoing services to LEP individuals, such as substance abuse counseling, mental health services, employment training, or other necessary public services. However, federal law already requires State programs receiving federal funds to take reasonable steps to ensure meaningful access to their services, programs, and activities to LEP individuals. The following provides some information on the steps that federal agencies are taking to ensure that state programs across the country are complying with existing federal law.

Exhibit 5
Projected Fiscal Impact of SB 265 as Amended
Phased-in Over Four Years

	FY 2003	FY 2004	<u>FY 2005</u>	FY 2006	FY 2007
Additional State Agencies Affected	5	10	10	9	0
Central Coordination - DHR	\$94,100	\$114,600	\$119,500	\$124,900	\$130,500
State Policy and Training	110,000	160,000	180,000	250,000	0
Translation of State Forms	54,000	93,900	122,400	148,400	121,800
Interpreter Services	32,100	97,100	163,500	257,600	260,200
Total State Expenditures	\$290,200	\$465,600	\$585,400	\$780,900	\$512,500

Assumptions:

- 1. The Department of Human Resources could not provide central coordination and technical assistance to State agencies with existing budgeted resources. Two additional employees would have to be hired.
- 2a. Eleven State cabinet departments and 19 agencies and commissions would incur costs for policy development and training.
- 2b. Policy development and training costs would total \$50,000 for larger cabinet departments and \$10,000 for smaller agencies.
- 3a. The estimated cost to translate vital forms and documents into Spanish totals \$6,000 per agency
- 3b. Translation cost estimate is based on \$60 per page through the current State contract and 100 pages of vital documents per agency.
- 3c. Approximately 50 pages of vital documents would be issued and updated each year.
- 3d. DHR, DHMH, and DOT would have to translate more than 100 pages of forms and documents.
- 4. Interpreter service expenses are phase-in over four years. This assumes a greater use of the current State contract.
- 5. The costs for translation and interpreter services increase by 1% each year for inflation.

Additional Comments: Several State agencies already provide interpreters or translate some forms and publications in other languages to assist individuals who cannot speak English. These agencies include the Department of Human Resources, Motor Vehicle Administration, the Judiciary, and the State Police. Other State agencies, however, have not proactively altered their delivery of public services to accommodate individuals with

non- or limited-English proficiency. The following provides information on existing services to non- and limited-English proficient residents in Maryland by agency. Several State agencies have included a potential estimate of the costs to comply with the bill's provisions. In many cases, the agencies significantly over estimated the projected costs to provide equal access to public services to individuals with limited English proficiency.

In addition, the fiscal impact on State agencies of providing equal access to public services for LEP individuals will be affected to a larger extent by existing federal requirements and guidelines and directives established by federal agencies in response to the Executive Order and Title VI of the Civil Rights Act of 1964. Since many State programs (health, human resources, education, environment, transportation, and employment training) receive federal funding, Senate Bill 265 would assist State agencies in complying with existing federal requirements. Absent the enactment of the legislation, State programs that receive federal funding would still be required to provide language assistance to LEP individuals.

Judiciary

The District Court already uses court interpreters in both civil and criminal proceedings. The District Court spent \$648,000 in fiscal 2000 and \$725,200 in fiscal 2001 on interpreters. The fiscal 2002 budget is \$962,000. Increased funding in fiscal 2002 is due to AOC including additional languages in its interpreter program as required by an administrative order from Judge Murphy. The fiscal 2003 State budget includes \$1.1 million for interpreters in the District Court.

AOC has a court interpreter program in place under which interpreters seeking work assignments in Maryland courts must meet certain minimum requirements. As of July 1, 1999, AOC has paid for court interpreters in criminal proceedings in the circuit courts. These costs totaled \$244,310 in fiscal 2000 and \$287,260 in fiscal 2001. The fiscal 2002 budget for court interpreter use in circuit court criminal proceedings is \$299,000. AOC does not currently pay for interpreters in circuit court civil proceedings; however, beginning in fiscal 2003 funding will be made available to cover these costs. The fiscal 2003 State budget includes \$650,000 for use of interpreters in all circuit court proceedings.

Department of State Police

The Department of State Police receives language interpreter services through a Washington D.C. based contractor. From February 1, 2000 to January 31, 2001, the State Police placed 29 calls for interpreter services: 24 for Spanish, 2 for Greek, and 1 each for Vietnamese, Russian, and Mandarin. The rate for services is \$1.75 per minute. The purchase order for fiscal 2001 totaled \$650. The State Police does not translate forms into a foreign language.

Department of Transportation

The Motor Vehicle Administration (MVA) has several services available to many non-English speaking customers. The MVA employees provide interpreter assistance in 22 different languages throughout the State. When an individual who is limited English proficient enters an MVA customer service center, the individual can request assistance by pointing to a language on a translator assistance chart. This chart includes the name of the language, the flag of the nationality represented, and a phrase stating in the foreign language that an interpreter will be provided to assist them. **Exhibit 6** shows the different languages provided at MVA customer service centers and the number of employees who speak that language. Approximately 30 MVA employees are identified as speaking a foreign language who can assist limited English proficient customers. Several employees speak more than one language. The MVA advises that when an interpreter is not present at a particular location, interpreter services are provided over the telephone.

Exhibit 6 Languages Spoken by MVA Employees

Azari (1)	German (1)	Kpelle (1)	Punjabi (1)	Urdu (2)
Bengali (1)	Gujrati (3)	Malayalam (1)	Russian (1)	Uzbek (1)
Chinese (1)	Hindi (6)	Marathi (1)	Spanish (13)	
Estonian (1)	Ilocano (1)	Nigerian (1)	Tagalog (4)	
French (1)	Italian (1)	Portuguese (1)	Turkish (1)	

The MVA driver's handbook is published in Spanish for distribution to the public. The MVA offers driving tests in English, Polish, Korean, Russian, and Spanish. The MVA advises that federal regulations require a commercial driver's license holder to comprehend English. The MVA distributes over 400 forms and brochures, many of which are not translated in a foreign language.

The Mass Transit Administration advises that it would cost approximately \$2.1 million in the first year and \$550,000 annually thereafter to translate transit schedules and publications into Polish, Korean, Russian, and Spanish. The Department of Legislative Services advises that since the MTA's service delivery area (Baltimore Metropolitan Area) does not include either Montgomery and Prince George's counties, the MTA would not be required to translate its transit schedules and publications in another language.

The State Highway Administration has provided information in foreign languages to assist individuals who cannot speak English. For example, a pedestrian safety public

service announcement for television has been produced in both English and Spanish to reach Spanish speaking Maryland residents.

Department of Assessments and Taxation

The Department of Assessments and Taxation advises that the legislation as originally introduced would increase expenditures at its Montgomery and Prince George's county offices by \$99,000 in fiscal 2003 and by \$37,000 annually thereafter. This estimate is based on the department translating all of its forms and brochures in to Spanish.

Department of Labor, Licensing, and Regulation

The U.S. Department of Labor and the U.S. Justice Department have previously issued guidelines that require the department to provide language translation and interpreter services to limited English proficient customers in federal funded programs. The department has developed a limited English proficient directive and plan that provides for language translations, interpreter services, and the employment of bi-lingual staff in local offices where a significant number of individuals served speak a language other than English. Spanish is the most frequently encountered language among limited English proficient individuals served by the department. Noncompliance with the federal guidelines could result in a loss of federal funding. Even with the department's current directive, the Department of Labor, Licensing, and Regulation (DLLR) advises that the legislation as originally introduced would increase expenditures by \$147,000 in fiscal 2003 and by \$100,000 annually thereafter. This includes the cost to hire one additional employee.

Maryland State Department of Education

The department's parent handbook is provided in six foreign languages including Chinese, French, Korean, Russian, Spanish, and Vietnamese.

Department of Human Resources

The department has already entered into a contract that provides interpreter services at local departments of social services to assist individuals with limited English proficiency. DHR advises that the Baltimore City Department of Social Services (BCDSS), the largest local department of social services, receives only two requests per month for in-person interpreter services. The duration for an in-person interpreter last approximately 2 hours at a cost of \$60 per hour. The total cost for in-person interpreters for the BCDSS is less than \$3,000 per year.

In addition, the official web site for the Department of Human Resources includes translations in foreign languages including Spanish, Chinese, French, German, Italian, Japanese, Korean, and Portuguese.

Department of Health and Mental Hygiene

The Mental Hygiene Administration advises that it currently provides interpreters at all public functions and has translated most documents related to public mental health services into languages other than English. These languages include, but are not limited to: Spanish, Korean, Russian, and Vietnamese. However, DHMH advises that forms and documents within the Community Health Administration, Developmental Disabilities Administration, and State laboratories would have to be translated into several languages at a cost of over \$100,000.

In addition, DHMH estimates that the Community Health Administration would serve 57,350 individuals with limited English proficiency and that the average duration for the interpreter service would last for two hours per individual. Accordingly, the department's expenditures for interpreter services would increase by \$8.3 million. The Department of Legislative Services, however, disagrees with this assessment. First, there are only 19,000 individuals in Maryland between the ages of 18 and 64 who cannot speak English and 64,000 individuals that cannot speak English very well. It is unlikely that 70% of these individuals would seek services from the department on an annual basis. In addition, based on the current State contract, the average duration for interpreter services is approximately 15 minutes and the duration for in-person interpreters is two-hours. Pursuant to the bill, in-person interpreter service is limited to clients who have frequent contact with agencies, such as on a weekly basis. Based on the experience at the BCDSS, the cost for interpreter services should not be in the millions of dollars as projected by DHMH.

The Maryland Health Care Commission advises that this bill would not have an affect on the commission's expenditures.

Public Health Services

The Department of Health and Mental Hygiene and local health departments are responsible for delivering public health services. The availability of interpreters and language translations varies across the State. The following is information provided by the Montgomery County Health Department.

The Montgomery County Health Department ensures that public health services are accessible to all county residents regardless of potential language barriers. Approximately ten community service aides work within the Public Health Services for translation purposes. According to a survey of Public Health Services managers, the

following language capacities exist within the county's program: Spanish (32 staff), French (6 staff), Vietnamese (3 staff), Hindi (2 staff), Cambodian (1 staff), Creole (1 staff), and Portuguese (1 staff).

The county health department also makes use of the Montgomery County Volunteer Center's Language Bank that consists of volunteers willing to serve as translators for county programs. The Volunteer Language Bank has volunteers who speak about 30 languages. In addition, the county health department subscribes to the AT&T Language Line that provides conference call translation services. The cost for this service ranges from \$2,000 to \$2,500 per month.

The county health department has translated several brochures and forms in approximately ten different languages. These materials include information on HIV/AIDS, maternal and early childhood care, prenatal care, Maryland Children's Health Program, Care for Kids Program, Immunizations, and reference guides.

The county health department has established a Manager for Hispanic Customer Services who is responsible for identifying the gaps in health and human services for the immigrant/Latino communities and facilitating partnerships with the nonprofit and private sectors to improve the delivery of health and human services to this community. The county's Latino Health Initiative is conducting a needs assessment to determine the top five health priorities among the Latino communities. The health department provides its Web Page in Spanish to assist individuals in accessing the department's services. The county health department advises that additional resources are needed to hire bilingual staff to assist individuals who cannot speak English.

Additional Information

Prior Introductions: Similar bills were introduced at the 2001 session as SB 542/HB 1160. The bills were amended to require a survey of State agencies. The bills were approved by the General Assembly and SB 542 was signed by the Governor.

Cross File: None.

Information Source: Judiciary (Administrative Office of the Courts), Department of Human Resources, Department of Health and Mental Hygiene, Department of Budget and Management, Department of Transportation (Motor Vehicle Administration), Department of Assessments and Taxation, University of Maryland (National Foreign Language Center), Department of Legislative Services

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