

## CALIFORNIA LEGISLATURE

2007–08 REGULAR SESSION

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# SENATE DAILY JOURNAL

TWO HUNDRED FIFTY-EIGHTH LEGISLATIVE DAY

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## IN SENATE

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Senate Chamber, Sacramento  
Tuesday, November 25, 2008

The Senate met at 4 p.m.  
Hon. Don Perata, of the 9th District, presiding.  
Secretary Greg Schmidt at the Desk.  
Assistant Secretary David Valverde reading.

### QUORUM CALL OF THE SENATE

Without objection, a quorum call was placed upon the Senate.  
The President directed the Sergeant at Arms to close the doors and to bring in the absent Members.

### PROCEEDINGS UNDER QUORUM CALL OF THE SENATE ROLL CALL

The roll was called and the following Senators answered to their names:  
Aanestad, Ackerman, Alquist, Ashburn, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Runner, Scott, Simitian, Steinberg, Torlakson, Wiggins, Wyland, and Yee—38.

Quorum present.

*(NOTE: Senator Battin will be excused this day on legislative business.)*



**PRAYER**

Upon invitation of the President, the following prayer was offered by Senator Jack Scott:

In the words of Psalm 95: Come let us sing to the Eternal, shout for joy to the Rock of our salvation. Let us come before God with thanksgiving, shouting for joy with song!

During this time of Thanksgiving, we are reminded to give thanks to our Creator for the many blessings in our lives and to give thanks for the things we too often take for granted, our family, our friends, our health.

Even as we give thanks for own blessings, may we be ever mindful of those who are in need and depend on others to help them during times of trouble. May each of us work diligently and speedily towards a day when all people might enjoy the bounty and blessings of our great State.

May this be God's will—AMEN.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Senator Steinberg led the Senate in the pledge of allegiance to the Flag.

**MESSAGES FROM THE GOVERNOR**

Governor's Office, State Capitol  
November 3, 2008

*To the Senate of the State of California:*

I have the honor to transmit to you herewith the following appointments or reappointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Geoffrey L. Baum, assistant dean, Annenberg School for Communication, University of Southern California, since 2001; former executive producer for C-SPAN, from 1999 to 2000; senior producer for C-SPAN from 1989 to 1993; former assistant vice president of marketing and public relations, Claremont McKenna College, from 1994 to 1999. Appointed 10/21/08. Effective 11/01/08.

Member, Board of Governors of the California Community Colleges, vice, Margaret R. Quinones, term expired, term ending 01/15/14.

Grant E. Destache, principal/director at REID Company since 2005; former president and partner, Ridge Properties, from 1999 to 2006; worked at Snyder Langston, from 1990 to 1999 as a development manager, San Diego area manager, business development manager and project manager; and is the director for the Lee Lake Water District. Appointed 10/16/08. Effective 10/28/08.

Member, California Regional Water Quality Control Board, San Diego Region, vice, Jennifer L. Kraus, Ph.D., resigned, term ending 09/30/12.



Scott M. Kernan, former acting undersecretary of program operations, California Department of Corrections and Rehabilitation (CDCR), since September 2008; former chief deputy secretary of Adult Operations, CDCR, since 2007; and deputy director, Division of Adult Institutions at CDCR, from 2006 to 2007. Appointed 10/16/08. Effective 10/16/08.

Undersecretary, Program Operations, Department of Corrections and Rehabilitation, vice, David L. Runnels, resigned, term ending at the Pleasure of the Governor.

Mary S. Fernandez, former assistant executive officer, State Personnel Board since 2007; former chief of the Administrative Services Division, State Personnel Board from 2005 to 2007; and director of member initiatives in the Project Management Office, California State Teachers' Retirement System, from 2003 to 2005. Appointed 10/16/08. Effective 10/16/08.

Undersecretary, Program Support, Department of Corrections and Rehabilitation, vice, Stephen W. Kessler, reassigned, term ending at the Pleasure of the Governor.

Above appointments referred to the Committee on Rules.

Governor's Office, State Capitol  
November 12, 2008

*To the Senate of the State of California:*

I have the honor to transmit to you herewith the following appointments or reappointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Gary S. Thompson, member, Rancho Santa Margarita City Council, since 2000; municipal financial analyst for Winzler and Kelly since 2007; former president, GST Consulting from 2005 to 2007; Rancho Santa Margarita representative to the Transportation Corridor System Board of Directors; and serves on the Orange County Vector Control District Board of Trustees. Appointed 11/03/08. Effective 11/10/08.

Member, California Regional Water Quality Control Board, San Diego Region, vice, Elizabeth P. Schneider, resigned, term ending 09/30/09.



Maria Mehranian, managing partner, Cordoba Corporation since 1992; former vice president, urban and transportation planning, Cordoba Corporation, from 1986 to 1992; member of the American Planning Association, California Hospital Medical Center Foundation Board of Directors and is chairperson for Armenia Fund. Appointed 10/16/08. Effective 10/24/08.

Member, California Regional Water Quality Control Board, Los Angeles Region, vice, Bonny L. Herman, resigned, term ending 09/30/11.

Stephen L. Edinger, former acting administrator, Office of Spill Prevention and Response since July 2008; former assistant chief, law enforcement division, Department of Fish and Game (DFG), from 2005 to 2008; fish and game patrol captain for the DFG, from 2000 to 2005; fish and game patrol lieutenant for the DFG, from 1997 to 2000; and fish and game warden for the DFG, from 1992 to 1997. Appointed 11/06/08. Effective 11/06/08.

Chief Deputy Director, Office of Spill Prevention and Response, Department of Fish and Game, vice, Lisa L. Curtis, resigned, term ending at the Pleasure of the Governor.

Laura N. Chick, city controller, Los Angeles, since 2001; former Los Angeles City Councilmember, from 1993 to 2001; former chief field deputy, for a Los Angeles City Councilmember, from 1988 to 1991; former social worker, Jewish Family Services, from 1987 to 1988; and former manager, family owned retail business, from 1977 to 1983. Reappointed 10/24/08. Effective 11/05/08.

Member, Board of Governors of the State Bar of California, term ending 09/01/11.

Above appointments referred to the Committee on Rules.

Governor's Office, State Capitol  
November 18, 2008

*To the Senate of the State of California:*

I have the honor to transmit to you herewith the following appointments or reappointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor



+Justice John Zebrowski, retired from the California Court of Appeal, Second Appellate District since 1999; currently a justice with ADR, Incorporated; former Associate Justice, California Court of Appeal, from 1995 to 1999; served on the Los Angeles County Superior Court, from 1982 to 1995; former assistant secretary and assistant general counsel, USA Petroleum Corporation, from 1981 to 1982; he is listed on the Panel of Distinguished Neutrals and is a member of the BAJI Civil Jury Instructions Committee. Appointed 10/23/08. Effective 11/17/08. Member, California Law Revision Commission, vice, David Hueber, resigned, term ending 10/01/11.

Robert T. Doyle, sheriff, Marin County, since 1996; has served the Marin County Sheriff's Office since 1969 as undersheriff, captain, lieutenant, sergeant and deputy sheriff; has served on the Commission on Peace Officer Standards and Training since 2006; former president, California State Sheriff's Association; and chairman of the Legislative Committee. Reappointed 10/28/08. Effective 11/07/08. Member, Commission on Peace Officer Standards and Training, term ending 09/18/11.

Henry J. Forman, Ph.D., a founding faculty member, school of natural sciences at the University of California, Merced; professor of chemistry and biochemistry since 2003; former professor and chair of the department of environmental health sciences, University of Alabama, Birmingham, from 1999 to 2003; past professor of molecular pharmacology and toxicology, University of Southern California, from 1992 to 1999. Appointed 10/22/08. Effective 11/10/08. Member, San Joaquin Valley Unified Air Pollution Control District, term ending 01/01/10.

Laurie R. Smith, sheriff of Santa Clara County, since 1998; has served on the Commission on Peace Office Standards and Training since 2006; former assistant sheriff, from 1990 to 1998; member, Child Quest International, the Domestic Violence Council, California State Sheriff's Association, California Peace Officers' Association; and has been appointed to serve on the Speaker's Commission on Police Conduct. Reappointed 10/28/08. Effective 11/10/08. Member, Commission on Peace Officer Standards and Training, term ending 09/18/11.

Above appointments referred to the Committee on Rules.

Governor's Office, State Capitol  
November 21, 2008

*To the Senate of the State of California:*

I have the honor to transmit to you herewith the following appointments or reappointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate



confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

Arnold Schwarzenegger, Governor

Scott B. Himmelstein, director, Center for Education Policy and Law, University of San Diego, since 2007; president, William D. Lynch Foundation for Children; former president, William D. Lynch Foundation for Children, from 1990 to 2005; former deputy secretary and chief of staff, Office of the Secretary of Education (OSE), from 2005 to 2007; and former acting secretary, from 2006 to 2007. Appointed 10/21/08. Effective 11/18/08.

Member, Board of Governors of the California Community Colleges, vice, Katherine "Kay" Albiani, Not Confirmed, term ending 01/15/13.

Steven M. Moore, civil engineer, Nute Engineering, since 2006; served on the San Francisco Bay Regional Water Quality Control Board, since March 2008; former chief of planning, planning staff, and water resources control engineer, Francisco Regional Water Quality Control Board, from 1992 to 2006; member, American Society of Civil Engineers and Save the Bay; and past member, Federal Aquatic Nuisance Species Task Force. Reappointed 11/13/08. Effective 11/20/08.

Member, California Regional Water Quality Control Board, San Francisco Bay Region, term ending 09/30/12.

Thomas F. Gede, principal, with Bingham Consulting Group and as of counsel at Bingham McCutchen, LLP since 2006; former executive director, Conference of Western Attorneys General, from 2000 to 2006; special assistant attorney general, California Office of the Attorney General (OAG), from 1991 to 2000; deputy attorney general in the criminal division of the OAG, from 1987 to 1990; earned his juris doctorate degree, University of California, Hastings College of Law. Appointed 10/22/08. Effective 11/18/08.

Member, Board of Directors, Hastings College of Law, vice, Derek "Tony" A. West, resigned, term ending 11/17/20.

William H. Gailey, chair of the investigation and intelligence gathering firm, Gailey Associates, since 1991; has served on the California State Bar Board of Governors since 2007; former public safety liaison for Californians for Schwarzenegger, 2006 and from 1968 to 1991; former detective, Los Angeles Police Department; serves on the Bureau of Security and Investigative Service Disciplinary Review Committee; and is a member of the Association of Licensed Investigators and the California Homicide Investigators Association. Reappointed 10/22/08. Effective 11/18/08.

Member, Board of Governors of the State Bar of California, term ending 09/01/11.



Robert Keith Dyas, environmental engineer specializing in industrial water use, Edwards Air Force Base since 1994; former civil engineer, civil engineering squadron, Edwards Air Force Base, from 1984 to 1994; mechanical engineer, Occidental Petroleum Corporation, from 1975 to 1984; serves on the Antelope Valley East-Kern Water Agency Board of Directors; and alternate commissioner, Antelope Valley State Water Contractors Association. Reappointed 11/13/08. Effective 11/20/08.

Member, California Regional Water Quality Control Board, Lahontan Region, term ending 09/30/12.

Hadi Makarechian, former chief executive officer and chairman of the board of directors, Capital Pacific Holdings, Incorporated since 1991; founded and served as president of Shamron Corporation of Maryland, from 1982 to 1991 and Shamron Corporation, from 1979 to 1982; serves as chairman of Makar Properties Board of Directors and Banning Lewis Ranch Management Company Board of Directors. Appointed 10/24/08. Effective 11/04/08.

Member, The Regents of the University of California, vice, Peter G. Preuss, term expired, term ending 03/01/20.

Russell M. Jeffries, owner and operator, Jeffries landscaping, since 1991; served on the Central Coastal Regional Water Quality Control Board since 1992; former senior communications technician for AT&T, from 1995 to 1991; former mayor of the city of Salinas, from 1987 to 1991; member, Salinas City Council, from 1981 to 1987; president, Moss Landing Harbor District; sanctuary advisory councilmember representing the California Environmental Protection Agency for the Monterey Bay National Marine Sanctuary; chairperson, Salinas/Kushikino Sister City Association and Monterey County Tax Appeals Board. Appointed 11/13/08. Effective 11/20/08.

Member, California Regional Water Quality Control Board, Central Coastal Region, vice, Daniel M. Press, term expired, term ending 09/30/12.

Above appointments referred to the Committee on Rules.

Governor's Office, State Capitol

November 24, 2008

*To the Senate of the State of California:*

I have the honor to transmit to you herewith the following appointments or reappointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate





confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Thomas J. Davis, chief planning and development officer, Agua Caliente Band of Cahuilla Indians, since 1997; served on the Colorado River Basin Regional Water Quality Control Board, since 2007; former senior associate for David Evans and Associates, from 1995 to 1997; former principal, co-owner and president, Tierra Planning and Design, from 1983 to 1995; member of the Guide Dogs of the Desert Board of Directors; and member of the Coachella Valley Economic Partnership Board of Directors. Reappointed 11/12/08. Effective 11/21/08.

Member, California Regional Water Quality Control Board, Colorado River Basin Region, term ending 09/30/12.

Irene Oropeza-Enriquez, elementary principal, Woodland Unified School District, since 2005; Oropeza-Enriquez was previously vice principal, bilingual resource teacher, fifth grade bilingual teacher, and supervisor to student teachers with the Woodland Unified School District from 1995 to 2005. She holds a Clear Administrative Services Credential. Appointed 10/29/08. Effective 11/21/08.

Member, Commission on Teacher Credentialing, vice, Jennifer L. Husbands, Ph.D., resigned, term ending 11/20/11.

Carolyn McInerney, manager, special projects, Orange County, since 2007; former chief of staff and executive assistant to former Orange County Supervisor Tom Wilson, from 1997 to 2007. McInerney was previously project consultant to Bishop and Associates, from 1991 to 1997; analyst for Southern California Edison, from 1978 to 1982; research associate for National Economic Research Associates, from 1975 to 1977; and housing commissioner, Orange County, from 1997 to 1999; founding board member and currently serves as president of the Irvine Public School Foundation. Appointed 11/21/08. Effective 11/21/08.

Member, Commission on Teacher Credentialing, vice, Leslie P. Schwarze, resigned, term ending 11/20/12.

John H. Muller, vice-mayor, Half Moon Bay, since 2006; owner, Daylight Farms and Farmer John's Pumpkin Farm, since 1990. served on the San Francisco Bay Regional Water Quality Control Board, since 1995; former owner, Daylight Nursery, from 1970 to 1990; and from 1967 to 1970, served as a line truck driver for PG&E; member, local Government Agency Committee, Federal Bureau of Investigation Citizens Academy Alumni Group, and California Farm Bureau Federation. Reappointed 11/13/08. Effective 11/20/08.

Member, California Regional Water Quality Control Board, San Francisco Bay Region, term ending 09/30/12.





William G. Kogerman, owner and vice president, Transpacific Associates, Incorporated since 1980; director, Orange County Great Park Corporation, since 2006; served in the U.S. Marine Corps, from 1960 to 1979. Appointed 10/28/08. Effective 10/30/08.

Member, State Park and Recreation Commission, vice, Robert S. Shriver, term expired, term ending 01/15/12.

Above appointments referred to the Committee on Rules.

## REPORTS OF STANDING COMMITTEES

### Committee on Rules

State Capitol, November 25, 2008

Madam President: The Committee on Rules has considered the following appointments by the Governor and reports the same back with the recommendation that they be confirmed:

Laura R. Doll, Member, Independent System Operator Governing Board (4–0)

Mason Willrich, Member, Independent System Operator Governing Board (4–0)

Doug P. McKeever, Director, Division of Juvenile Programs, Department of Corrections and Rehabilitation (4–0)

Teresa M. Takai, State Chief Information Officer (4–0)

PERATA, Chair

Above appointments ordered placed on unfinished business file.

State Capitol, November 25, 2008

Madam President: The Committee on Rules has considered the following appointment by the Governor and reports the same back with the recommendation that he be confirmed:

Jerilyn R. Harris, Member, Teachers' Retirement Board (4–0)

PERATA, Chair

Above appointment ordered placed on unfinished business file.

State Capitol, November 25, 2008

Madam President: The Senate Rules Committee has appointed Ms. Sheila Kuehl of Los Angeles as a member of the California Integrated Waste Management Board to serve for a term ending January 1, 2011.

PERATA, Chair

## COMMUNICATIONS

The following communication was ordered printed in the Journal:

November 25, 2008

*Lieutenant Governor John Garamendi*  
*President, California State Senate*

Dear Lieutenant Governor Garamendi:

Please accept my resignation as an elected member of the California State Senate representing the people of the 26th District. My resignation

is effective at 12:00 a.m. (midnight) Sunday, November 30, 2008. I formally resign to assume my position as a newly-elected member of the Los Angeles County Board of Supervisors representing the people of the Second District at 12:00 p.m. (noon) on Monday, December 1, 2008.

So as to minimize the local government expense associated with filling the 26th District Senate seat I am vacating, and pursuant to state law, it is my sincere hope that Governor Schwarzenegger will issue a proclamation calling for a special election for voters to choose a new 26th Senate District representative be scheduled to coincide with the municipal elections in the City and County of Los Angeles on March 3, with a runoff election to be held on May 19, 2009, if no candidate receives a majority of the votes cast during the March primary election.

It is my hope that these elections can be consolidated on the same ballot already on our local government elections calendar, thereby saving taxpayers an estimated \$1.5 million in election administration expenses, and at the same time, mitigating voter fatigue.

It has been an honor to serve the constituents of the 26th Senate District. I have enjoyed working with my Senate colleagues and legislative staff whose commitment to public service remains an inspiration for my own work. Although I am moving to a new public service assignment, I look forward to engaging members of the Legislature on important policy issues on an ongoing basis, especially members in the Senate—the body for which I have the utmost respect and regard—in our continuing effort to make government work for the people we represent.

With hope,

MARK RIDLEY-THOMAS  
26th Senate District

#### **Senator Romero Presiding**

#### **REQUEST FOR UNANIMOUS CONSENT**

Senator Perata asked for, and was granted, unanimous consent to take up the following Governor's appointments at this time, without reference to file.

#### **Consideration of Governor's Appointments**

Senator Perata placed the following Governor's appointments before the Senate:

Laura R. Doll, Member, Independent System Operator Governing Board

Mason Willrich, Member, Independent System Operator Governing Board

The President put the question: "Will the Senate advise and consent to the appointments by the Governor?"



**Roll Call**

The roll was called and the appointments were confirmed by the following vote:

AYES (28)—Senators Ackerman, Alquist, Ashburn, Cedillo, Cogdill, Corbett, Correa, Cox, Ducheny, Florez, Harman, Kehoe, Kuehl, Lowenthal, Margett, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Romero, Runner, Scott, Simitian, Steinberg, Torlakson, and Wiggins.

NOES (0)—None.

**CONSIDERATION OF DAILY FILE  
UNFINISHED BUSINESS****Consideration of Governor's Appointment**

Senator Perata placed the following Governor's appointment before the Senate:

Doug P. McKeever, Director, Division of Juvenile Programs, Department of Corrections and Rehabilitation.

The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"

**Roll Call**

The roll was called and the appointment was confirmed by the following vote:

AYES (35)—Senators Aanestad, Ackerman, Alquist, Ashburn, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Romero, Runner, Scott, Simitian, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

**Consideration of Governor's Appointment**

Senator Perata placed the following Governor's appointment before the Senate:

Teresa M. Takai, State Chief Information Officer.

The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"

**Roll Call**

The roll was called and the appointment was confirmed by the following vote:

AYES (36)—Senators Aanestad, Ackerman, Alquist, Ashburn, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Negrete McLeod,



Oropeza, Padilla, Perata, Romero, Runner, Scott, Simitian, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

### **Consideration of Governor's Appointment**

Senator Perata placed the following Governor's appointment before the Senate:

Jerilyn R. Harris, Member, Teachers' Retirement Board

The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"

### **Roll Call**

The roll was called and the appointment was confirmed by the following vote:

AYES (36)—Senators Aanestad, Ackerman, Alquist, Ashburn, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, Ducheny, Dutton, Florez, Harman, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Negrete McLeod, Oropeza, Padilla, Perata, Romero, Runner, Scott, Simitian, Steinberg, Torlakson, Wiggins, and Wyland.

NOES (0)—None.

### **RECESS**

At 4:15 p.m., on motion of Senator Romero the Senate recessed in order to convene the fourth extraordinary session.

### **REASSEMBLED**

At 6:23 p.m., the Senate reconvened.

Hon. Gloria Romero, of the 24th District, presiding.

### **LEAVES OF ABSENCE FOR THE DAY**

The following Senator was granted leave of absence for the day due to legislative business: Senator Battin.

### **FURTHER PROCEEDINGS UNDER QUORUM CALL OF THE SENATE DISPENSED WITH**

At 6:23 p.m., on motion of Senator Steinberg, further proceedings under the quorum call of the Senate were dispensed with.

### **MOTION TO ADJOURN**

Senator Steinberg moved that the Senate stand adjourned.

Motion carried.



**REQUESTS TO ADJOURN IN MEMORIAM**

Senator Calderon requested that when the Senate adjourns this day it do so in memory of Richard Mark Bobb of Los Angeles.

Senator Cogdill requested that when the Senate adjourns this day it do so in memory of Edward John Worth of San Jose.

Senator Cox requested that when the Senate adjourns this day it do so in memory of Matthew Antonio Nunes of Sutter Creek.

Senator Dutton requested that when the Senate adjourns this day it do so in memory of the Taylor twins of Sacramento.

Senator Hollingsworth requested that when the Senate adjourns this day it do so in memory of Billie Gene Nicolet of El Cajon and Terry Ryan of San Diego.

**ADJOURNMENT**

At 6:23 p.m., November 25, 2008, the President declared the Senate adjourned.

PAULA K. ROSSETTO, Minute Clerk

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