

# ALERT

VOLUME 36, NUMBER 8 • MARCH 12, 2010



## CalChamber Fights to Preserve Open Primary Ballot Wording

## Lawmakers Voice Support for Economic Analysis of Proposals



A Sacramento Superior Court Judge ruled on March 9 that Californians for an Open Primary, a group co-chaired by California Chamber of Commerce

the open primary, Proposition 14 on the June ballot.

During a news conference on March 8, Zaremborg and other supporters announced plans to intervene in the lawsuit to protect the interests of California voters. They highlighted the secretive attempt by the California School Employees Association (CSEA) to work through the courts to edit the ballot title and summary for Proposition 14 in a way that would bias voters against the measure.

The lawsuit names Debra Bowen in her official capacity of Secretary of State as the defendant. The Office of the Legislative Counsel, which normally would be expected to defend the ballot title and summary as enacted, was resisting any effort to defend the law as drafted. On several occasions, Legislative Counsel rejected offers from Californians for an Open Primary to provide defense.

Interestingly, late in the evening of

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President and CEO Allan Zaremborg, will be allowed to intervene in an important, but quietly filed, lawsuit that attempts to subvert previously approved ballot language for Proposition 14.

Opponents of the open primary measure apparently contrived the lawsuit to undermine language previously approved by a two-thirds majority of the Legislature and signed by the Governor last year during budget negotiations. The changes they sought would have, essentially, created a campaign piece against

## CalChamber2010.com to Offer Live Stream of Republican Gubernatorial Primary Debate

**CalChamber2010.com**, a comprehensive, first-of-its-kind website offering Californians videos and side-by-side comparisons of the gubernatorial candidates' stance and history on issues most important to the state's economy and job climate, will be streaming live the Republican Primary Gubernatorial Debate on Monday, March 15 at 5:30 p.m.

Visit [CalChamber2010.com/debate](http://CalChamber2010.com/debate) to watch the two leading Republican candidates for governor, Insurance

Commissioner Steve Poizner and former eBay CEO Meg Whitman, share with Californians their solutions for our future. During the one-hour debate, they will discuss plans to balance the state's budget, bring jobs to California and improve the economy. The debate will be moderated by KNBC political reporter Conan Nolan.

New Majority is sponsoring the event—and questions from the public are being accepted in advance at [moderator@newmajoritydebate.com](mailto:moderator@newmajoritydebate.com).

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## SUPPORT

Members of the Senate Rules Committee expressed support this week for a concept long advocated by the California Chamber of Commerce—subjecting proposed

legislation to an economic impact analysis.

The forum for the discussion was a hearing of the Senate Rules Committee on SBX8 60 (Harman; R-Huntington Beach), which expands the assignment of an existing joint legislative committee to include the economic review.

CalChamber President and CEO Allan Zaremborg suggested creation of an economic impact committee in an April 2009 commentary.

### 'Laudable Goal'

Senate President Pro Tem Darrell Steinberg (D-Sacramento), chair of Senate Rules, said the goal of the legislation is laudable but he questioned the need to create another layer of government for the economic review.

He asked whether the assignment to analyze the economic impact of a proposal could be made part of existing

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## Inside

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## Labor Law Corner

# Flexitime Allows Schedule Adaptations, But Daily Overtime Rules Apply



**Dale Louton**  
Senior Helpline  
Consultant

*Please explain the difference between an alternative workweek schedule and flexitime. We are a call center with 25 employees who work different shifts with varying starting and stopping times.*

An alternative work schedule is a formal arrangement and if correctly executed by an employer allows employees to work up to 10 hours per day

without the payment of daily overtime.

Flexitime, if permitted by your policy, allows employees to work different starting and stopping times, but daily overtime rules still apply. For example, an employee might be allowed to start work at 6 a.m. rather than 8 a.m., thus ending the work day 2 hours earlier.

### Wage Order Requirements

Your company is subject to the provisions of Industrial Welfare Commission Wage Order 4. Section 3 of this order contains daily, weekly and seventh-day overtime requirements.

Section 3 (B) and Section 3 (C) provide for an Alternative Workweek Schedule and Election Procedures.

If the section is properly implemented, you are not required to pay daily overtime; however, you are required to pay premium pay of time-and-a-half and double-time for hours worked outside the schedule.

For full details on alternative workweek schedules, go to **HRCalifornia.com**. There also is a full chapter devoted to this subject in the **2010 California**

**Labor Law Digest** (Chapter 15).

Your operation may not be conducive to an alternative workweek schedule because of the many shifts and different starting and stopping times.

### Flexitime

Flexitime is not rigid as the alternative workweek schedule and gives you the ability to meet the needs of your company.

For example, you may want to accommodate an employee with a child care necessity. Flexitime allows you to manage your company by adapting employee work schedules to fit your needs. Daily overtime applies, however. That is time-and-a-half pay for more than 8 hours of work in a day and double-time for more than 12 hours of work in a day.

*The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at [www.hrcalifornia.com](http://www.hrcalifornia.com).*

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## CalChamber-Sponsored Seminars/Trade Shows

More information at [www.calchamber.com/events](http://www.calchamber.com/events).

### Business Resources

Central Valley Tour. Water Education Foundation. April 14–16, Bakersfield. (916) 444-6240.

### Government Relations

Tax-Exempt Organizations Workshop. IRS Exempt Organizations Specialists. March 16–18, McClellan. (703) 579-1496.

### International Trade

World Trade Week Briefing. Los Angeles Area Chamber of Commerce. March 17, Los Angeles. (213) 580-7569.

California Agriculture and Our Economy. Monterey Bay International Trade Association (MBITA). March 19, Salinas. (831) 335-4780.

Certified Cargo Screening Program. Transportation Security Administration. March 22, Hawthorne. (310) 973-3132.

Globe 2010. The GLOBE Foundation.

March 24–26, Vancouver, British Columbia. (604) 695-5001.

International Tax Conference. U.S. Council for International Business (USCIB). March 31, Mountain View. (202) 682-7465.

Stonetech 2010. CCPIT Building Materials Sub-council. April 6–9, Shanghai, China. [kontakt@merebo.de](mailto:kontakt@merebo.de).  
Asiawater 2010. AMB Exhibitions

*See CalChamber-Sponsored: Page 3*

## CalChamber Calendar

*CalChamber PAC Workshop:*

March 19, Long Beach

*Business Summit/Sacramento*

*Host Breakfast: May 17–18, Sacramento*



# CalChamber Identifies Legislation Seeking to Improve Jobs Climate, Help Recovery

The California Chamber of Commerce has identified a number of bills as job creators. If passed, these proposals will improve the state's job climate and stimulate economic recovery.

Job creator bills identified so far will provide balanced regulatory policies, encourage investments and increase construction jobs.

Other job creators are likely to be identified as CalChamber staff members continue to review the thousands of bills introduced shortly before the February 19 deadline to introduce legislation.

Following are job creators identified by the CalChamber and their status:

## Balanced Regulation

● **SB 356 (Wright; D-Inglewood) Small Business Impact Analysis.** Improves the small business climate in California by reforming the regulatory development process to include a specific small business economic impact analysis and other provisions that mitigate the cost of regulation to small business. *(Last Amended 1/12/10). Awaiting action in Assembly Business and Professions Committee.*

## Encourages Investments

● **AB 222 (Adams; R-Hesperia) Green Energy.** Encourages new investment and job creation by allowing conversion of solid waste to energy at a



biorefinery to count toward meeting the state mandate that 20 percent of energy come from renewable sources by 2010. *(Last Amended 7/8/09). Awaiting action in Senate Environmental Quality Committee.*

● **AB 697 (C. Calderon; D-Montebello) Removes Onerous Tax Burden.** Relieves employers of a onerous, costly tax burden by prospectively repealing an unfair, strict liability tax penalty that applies even to reasonable tax disputes, that was enacted as part of the September 2008 budget. *(Last Amended 6/1/09). Senate Revenue and Taxation Committee suspense file.*

● **AB 1565 (Ruskin; D-Redwood City) Research and Development Credits.** Encourages investment and jobs in research and development by increasing the research and development tax credit rate from 15 percent to 20 percent, in conformity with federal law, beginning in 2012. *(Last Amended*

*5/28/09). Awaiting action in the Senate Revenue and Taxation Committee.*

## Increased Construction Jobs

● **AB 1805 (C. Calderon; D-Montebello) Increases Construction Jobs.** Facilitates job creation by giving a limited number of environmentally sound development projects protection from California Environmental Quality Act (CEQA) lawsuits. This benefit will allow projects that have met their CEQA requirements to break ground sooner, which will create badly needed jobs and spur economic growth. *Assembly Natural Resources Committee hearing 3/22/10.*

● **ABX8 37 (C. Calderon; D-Montebello) Increases Construction Jobs.** Facilitates job creation by giving a limited number of environmentally sound development projects protection from CEQA lawsuits. This benefit will allow projects that have met their CEQA requirements to break ground sooner, which will create badly needed jobs and spur economic growth.

● **SB 1010 (Correa; D-Santa Ana) Increases Construction Jobs.** Facilitates job creation by giving a limited number of environmentally sound development projects protection from CEQA lawsuits. This benefit will allow projects that have met their CEQA requirements to break ground sooner, which will create badly needed jobs and spur economic growth. *Awaiting action in Senate Environmental Quality and Judiciary committees.*

● **SBX8 34 (Padilla; D-Pacoima) Supports Construction of Vital Projects.** Ensures the expedited permitting of environmentally sound solar thermal projects, enabling them to qualify for grants under the American Recovery and Reinvestment Act of 2009. *(Last Amended 3/8/10). Assembly Floor.*

● **SBX8 42 (Correa; D-Santa Ana) Increases Construction Jobs.** Facilitates job creation by giving a limited number of environmentally sound development projects protection from CEQA lawsuits. This benefit will allow projects that have met their CEQA requirements to break ground sooner, which will create badly needed jobs and spur economic growth. *Held in Senate Environmental Quality 2/24/10.*

## CalChamber-Sponsored Seminars/Trade Shows

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Sdn Bhd. April 6–9, Kuala Lumpur, Malaysia. [kontakt@merebo.de](mailto:kontakt@merebo.de).  
Hannover Messe 2010. Deutsche Messe AG. April 19–23, Hannover, Germany. [eloisa.klementich@bth.ca.gov](mailto:eloisa.klementich@bth.ca.gov).  
International Green CEO Summit. Indonesian Chamber in Jakarta. April 28–May 1, Jakarta, Indonesia. [grace@greenceosummit.com](mailto:grace@greenceosummit.com).  
World Trade Conference. U.S. Department of Commerce. May 5, Ontario. (951) 440-9944.  
Consular Corps Luncheon. NorCal World

Trade Center. May 18, Davis. (916) 447-9827.

Clean-Tech Trade Mission to China. Monterey Bay International Trade Association (MBITA) and Asia Gateway Inc. May 22–29, Shanghai, China. (831) 335-4780.

### Labor Law

HR101 Part 3 – Harassment and Discrimination. CalBizCentral. March 25, Webinar. (800) 331-8877.

HR101 Part 4 – Discipline and Termination. CalBizCentral. April 1, Webinar. (800) 331-8877.

## CalChamber Fights to Preserve Open Primary Ballot Wording

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March 8, the Legislative Counsel suddenly reversed their position and issued a letter saying they have no problem with the Proposition 14 supporters defending the ballot language in court. Attorneys for the Proposition 14 campaign have pointed out that the court lacks authority to change the measure's ballot label and title and summary because the language was passed by a two-thirds vote of the Legislature and signed into law by Governor Arnold Schwarzenegger.

### Voice for Voters

Zaremborg commented at the news conference that the open primary will ensure that voters have a strong voice in the November general election, rather than just in the primary, as is now the case. An open primary will allow voters to select candidates who most closely reflect their views and represent the interests of their districts.

"It's time that we open up the elections in California, no longer have guaranteed elections in November and have the primary candidate who wins by a very small margin of partisan electorate be the guaranteed winner in November," Zaremborg said. "We need to give everybody the right to vote in the primary, and then we need to make sure everybody's vote counts in the general election."

### Proposition 14

Proposition 14, the California Top Two Candidates Open Primary Act, would institute for congressional, statewide and legislative elections a system similar to the one currently used in local elections for school boards, city councils and county supervisors. All candidates' names would appear on the same primary ballot regardless of party — Republicans, Democrats, decline to



CalChamber President and CEO Allan Zaremborg highlights the need for Proposition 14, the open primary measure on the June ballot, at a March 8 press conference on the steps of the State Capitol.

state and independents. All voters would be eligible to vote in the primary, regardless of party preference. The two candidates receiving the most votes in the primary, no matter what their party, would face off in the general election.

This proposed measure mirrors the development of the successful "open primary" election system that is in place in the state of Washington. This system allows the top two vote getters, regardless of party, to compete in the general election and has been validated by the U.S. Supreme Court.

The CalChamber Board of Directors voted to support the California Top Two Candidates Open Primary Act because

members believe it will increase voter participation and empowers Californians in all state legislative districts to elect candidates who represent the broadest views in their district.

In February, Zaremborg was joined in signing the pro-Proposition 14 ballot arguments by Jeannine English, California state president of the AARP, and James Earp, executive director of the California Alliance for Jobs.

### More Information

For more information, visit the Californians for an Open Primary campaign website, [www.yeson14openprimary.com](http://www.yeson14openprimary.com).

**They won't know unless you tell them. Write your legislator.**

**[calchambervotes.com](http://calchambervotes.com)**

## CalChamber Encourages Assistance to Help Chile Recover from Earthquake

The California Chamber of Commerce is encouraging businesses to offer support to help Chile recover from the devastating 8.8 magnitude earthquake and resulting tsunami on February 27 and subsequent aftershocks.

“The California Chamber of Commerce wishes to express its deepest sympathy to our partners in Chile during this difficult and terrible time,” said Susanne Stirling, CalChamber vice president of international affairs. “With the strength of their democracy, we are assured that Chile will confront this disaster with determination and rebuild to be even stronger.”

Specific assistance from the international community requested by then-Chile President Michelle Bachelet immediately after the earthquake asks for satellite phones and antennas, generators, transitional houses, mechanical bridges, field hospitals, structural damages evaluation systems, salt water purification systems (drinking water supplies), tents, dialysis centers, mechanical public centers (food centers) and rescue expert teams.

On March 11, Sebastián Piñera succeeded Bachelet as President of Chile.

### Damage Assessment

On March 10, the Chilean Exporters Association reported that the country’s fruit production and export sector was quickly working toward normal operations.

Distribution of fruit products from most regions to Chilean ports “is back to normal schedules and unhindered by earthquake damage,” the association said.

A week earlier, the association found that there had been “important damage in major production areas and infrastructure including packing stations and cold storage facilities.” Much of the damage occurred in regions affecting mostly table



grapes, apples, pears and blueberries.

Vinos de Chile, the association of Chilean wineries, estimated 125 million liters of wine lost, including bulk, bottled and aging. The figure is the equivalent of \$250 million, a loss of 12.5 percent compared with the 2009 vintage of 1.01 billion liters, Vinos de Chile said. As of March 3, routine work had been re-established or would be soon, according to the wineries association.

### Relief Contributions

The Embassy of Chile has opened an account at Bank of America specifically for Chile earthquake relief contributions, and is accepting contributions via mail (1732 Massachusetts Avenue NW, Washington, DC 20036). The embassy is updating information continuously at [www.chile-usa.org](http://www.chile-usa.org). Contribution links are included on the site.

Tax exempt donations also can be made through the Pan American Development Foundation online ([www.panamericarelieff.org](http://www.panamericarelieff.org)) or via telephone (877-572-4484), a special account at Citibank or mail (1889 F Street NW, Second Floor, Washington, DC 20006, Chile Relief).

### Energy/Clean Water Effort

A group of professionals and California government officials announced last week that they are working to bring

energy and communication lines in addition to clean water to remote areas of Chile hit hard by the earthquake.

Items being gathered for this effort include photovoltaic solar panels, power inverters, street lights, wind energy, portable water treatment units (or water purifiers) and water desalination units.

Non-cash donations are being gathered at West Valley College in Saratoga. Cash donations are being gathered by Energy for the Future/Chile in Rancho Cordova.

### Chile Ties

In September 2009 during a trade mission to Santiago, the capital of Chile, the CalChamber joined in the signing of a Memorandum of Understanding (MOU) to promote further trade and investment between California and Chile. The trade mission was a follow up to the June 2008 signing of an MOU between California and Chile by Governor Arnold Schwarzenegger and then-Chile President Bachelet.

In 2008, California exported more than \$1.6 billion worth of goods to Chile, an increase from \$880 million in 2007.

Since the U.S.-Chile Free Trade Agreement was implemented on January 1, 2004, bilateral trade between Chile and the United States has doubled.

More information on Chile and relief efforts is at [www.calchamber.com/chile](http://www.calchamber.com/chile).  
**Staff Contact: Susanne Stirling**



INTERNATIONAL TRADE UPDATES AT

[www.calchamber.com/international](http://www.calchamber.com/international)

## Lawmakers Voice Support for Economic Analysis of Proposals

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reviews, such as that done by the Office of the Legislative Analyst. Another suggestion was that the economic impact be part of the Appropriations Committee analysis.

Harman said he was willing to work with committee members on how to conduct the economic analysis. He emphasized the importance of having an organized, distinct process for the economic review.

### Qualified Analysis

In testimony to Senate Rules, Marc Burgat, CalChamber vice president of government relations, commented that the place where the economic analysis is conducted is not necessarily as important as making sure the analysis is done by staff members qualified to conduct an economic impact review.

The earlier in the process the analysis is done, the better, Burgat said. "Given the current economy and recession, the economy and jobs have to be a litmus test in which all analysis is based," he said.

Harman's proposal called for the economic review to be done on any proposal estimated to generate a fiscal impact of \$10,000 or more on small business or \$50,000 or more on any other business. The joint legislative committee also would be required to report on such proposals each year.

In a letter to Harman and Senate Rules, the CalChamber noted that the creation of an economic impact committee that reviews all bills to determine their statewide economic impact is "a good first step in determining whether the state as a whole can afford any new proposal."

Currently, both the Assembly and Senate have Appropriations committees that review the fiscal impact of proposals on government and reject legislation that the government can't afford.

### Prudent Action

"Because cost is the most important indicator of whether a business will add future jobs here or somewhere else, a similar process to assess the impact of

proposed legislation on business and therefore the economy seems prudent," the CalChamber said.

"The Legislature must create and seize economic development opportunities, reduce the cost and risk of keeping and growing jobs, and jump-start public and private infrastructure and commercial projects," the CalChamber wrote. "As they consider any new legislation or regulation, our leaders must fully and realistically assess the impacts of any proposed mandate on the private sector. SBX8 60 provides a tool to meet this goal."

Steinberg and others on Senate Rules committed to working with Senator Harman on an appropriate forum and specifics of how to conduct the economic analysis.

Harman's SB 954 contains language identical to SBX8 60, which was introduced as part of the Eighth Extraordinary Session of the Legislature. Steinberg said the special session "probably" would close on Friday, March 12.

**Staff Contact: Marc Burgat**

## CalChamber2010.com to Stream Republican Primary Debate

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California Chamber of Commerce President and CEO Allan Zarembek will address the audience before the debate.

### Educating Californians

Created by the CalChamber, this project has one clear goal: educating Californians. This is not a site that advocates for a particular candidate. It lets the user decide. At *CalChamber2010.com*, visitors can find indepen-

dently sourced material and video clips that allow the voter to see and hear what the candidates say in their own words.

The site focuses on issues of critical importance to the state's economy and job climate in nine areas: Budget and Spending; Jobs and the Economy; Taxes; Education; Health Care; Environment and Energy; Water; Public Safety; and Housing and Transportation.

The CalChamber is urging readers to share *CalChamber2010.com* with

friends, followers and colleagues on their favorite social network — and ask them to do the same. Easy-to-follow directions are available on the site.

Video from the debate will be available on *CalChamber2010.com* following the live streaming event.

Visit *CalChamber2010.com/debate* to sign up to receive a reminder e-mail just before the debate starts.

**Staff Contact: Rob Lapsley**

**Which candidate is best for California?**  
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Available exclusively at

**CalChamber2010.com**

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Jobs • Economy • Working Families

## CalBizCentral Offers Free Webinar on Pregnancy Disability Leave

A free web seminar answering the top 10 questions employers ask regarding pregnancy disability leave (PDL) is being offered by CalBizCentral, the source for California business and human resource compliance products, presented by the California Chamber of Commerce.

This 30-minute free webinar is available on demand to registrants.

This webinar will help employers with five or more employees and employers with 50 or more employees who are not yet eligible for Family Medical Leave Act (FMLA)/California Family Rights Act (CFRA).

### Top 10 Questions

The top 10 questions that will be discussed are:

- Which employees are eligible for PDL?

- How much PDL are employees entitled to take?

- What types of wage replacement and/or benefits must be given to an employee on PDL?

- When should you require medical certification from an employee—when the leave begins, after, or both?

- An employee was put on a performance improvement plan just before they went out on PDL: What should you do about the performance issues when the employee returns from PDL?

- Your company is experiencing layoffs and has an employee who will soon be taking PDL: Can the employee take PDL early to avoid a layoff? What if she is on the layoff list?

- What should you do when a female applicant for a job discloses she is

pregnant? Can she not be hired because of her pregnancy?

- Does PDL include time off for prenatal care or if an employee miscarries?

- If the employee's health care provider has certified that the employee is able to work with no restrictions, what should be done about absences the employee says are related to the pregnancy?

- After a PDL, how much time do you give an employee for baby bonding?

### Registration

Registration and more information on the webinar is available at [www.calbizcentral.com/training](http://www.calbizcentral.com/training) or by calling (800) 331-8877.

## Small Business Advocate Award Nomination Form Available

The California Chamber of Commerce has opened nominations for its Small Business Advocate of the Year Award.

Nominees should have contributed significantly as an advocate for small business by being involved in such activities as taking leadership roles in or working on state or local ballot

measures, testifying before the state Legislature, representing a local chamber of commerce before local government, and being actively involved on federal legislation.

### Deadline: April 2

Award nominations are due to the CalChamber Local Chamber Department by April 2. The CalChamber will

recognize award winners at its Business Summit on May 17 in Sacramento.

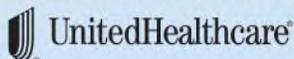
The nomination form and criteria are available at [www.calchambervotes.com](http://www.calchambervotes.com) or may be requested from the Local Chamber Department at (916) 444-6670.

CalChamber.

## 2010 Business Summit

MAY 17 AND 18 | SACRAMENTO CONVENTION CENTER

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Governor Arnold Schwarzenegger



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## Need assistance with HR issues? Try our HRConsultant Network.

We know you turn to CalChamber when you need current and accurate employment law information. When your human resources needs go beyond California employment law clarification, you can turn to the **CalChamber HRConsultant Network**.

Each participating HR consultant has gone through an application process that included a background verification, professional reference check and interview with CalChamber employment law counsel. Whether it's an employee handbook review, policy development, human resources outsourcing, employee retention strategies or other human resources services—you can now turn to the **HRConsultant Network** to find a local human resources consultant to assist with your HR needs.

The HRConsultant Network is just another way that CalChamber is helping California business do business.



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To find a participating HRConsultant network professional near you, visit [www.calchamber.com/hrconsultant](http://www.calchamber.com/hrconsultant).

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