

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senators Diaz-Balart, Kirkpatrick, Horne and Dyer

316-1960A-99

1 A bill to be entitled
2 An act relating to limerock mining; amending s.
3 373.4149, F.S., relating to the Miami-Dade
4 County Lake Belt Plan; providing legislative
5 intent; revising description of land included
6 in the Miami-Dade County Lake Belt Area;
7 providing for local land use jurisdiction and
8 for land use compatibility within the Lake Belt
9 Area; requiring certain notice of mining
10 activities; revising membership of the
11 Miami-Dade County Lake Belt Plan Implementation
12 Committee; providing additional requirements
13 for Phase II of the Lake Belt Plan; extending
14 the existence of the implementation committee;
15 deleting requirement for development of a
16 comprehensive mitigation plan; creating s.
17 373.41492, F.S.; imposing a mitigation fee on
18 commercial extraction of limerock and sand from
19 the Lake Belt Area; providing an exemption;
20 providing procedures for collection, report,
21 and disposition of fees; providing for
22 enforcement and penalties; providing duties and
23 authority of the Department of Revenue;
24 providing for rules; providing for annual
25 indexed fee increases after a specified date;
26 providing purpose of fees for wetlands
27 mitigation and specifying uses; requiring
28 approval of expenditures by an interagency
29 committee; providing membership of the
30 committee; providing that payment of the fee
31 satisfies certain mitigation requirements;

1 providing for suspension of the fee under
2 certain circumstances; requiring interagency
3 committee reports to the South Florida Water
4 Management District and the Legislature;
5 amending ss. 373.4415, 378.4115, F.S.;
6 correcting references to conform to the
7 county's name change; providing severability;
8 providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Section 373.4149, Florida Statutes, is
13 amended to read:

14 373.4149 Miami-Dade ~~Dade~~ County Lake Belt Plan.--

15 (1) The Legislature hereby accepts and adopts the
16 recommendations contained in the Phase I Lake Belt Report and
17 Plan, known as the "Miami-Dade ~~Dade~~ County Lake Plan," dated
18 February 1997 and submitted by the Miami-Dade ~~Dade~~ County Lake
19 Belt Plan Implementation Committee.

20 (2)(a) The Legislature recognizes that deposits of
21 limestone and sand suitable for production of construction
22 aggregates, cement, and road base materials are located in
23 limited areas of the state.

24 (b) The Legislature recognizes that the deposit of
25 limestone available in South Florida is limited due to
26 urbanization to the east and the Everglades to the west.

27 (3) The Miami-Dade ~~Dade~~ County Lake Belt Area is that
28 area bounded by the Florida Turnpike to the east, the
29 Miami-Dade-Broward ~~Dade-Broward~~ County line to the north,
30 Krome Avenue to the west and Tamiami Trail to the south
31 together with the land south of Tamiami Trail in sections 5,

1 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, ~~and in~~
2 sections ~~11, 12, 13, 14, 23, 24, 25, 26, 35,~~ and 36, Township
3 54 South, Range 38 East less those portions of section 10,
4 except the west one-half, section 11, except the northeast
5 one-quarter and the east one-half of the northwest
6 one-quarter, and tracts 38 through 41, and tracts 49 through
7 64 inclusive, section 13, except tracts 17 through 35 and
8 tracts 46 through 48, and section 14, except the west three
9 quarters, Township 52 South, Range 39 East, lying north of the
10 Miami Canal, sections 35 and 36 and the east one-half of
11 sections 24 and 25, Township 53 South, Range 39 East and
12 Government Lots 1 and 2, lying between Townships 53 and 54
13 South, Range 39 East and those portions of sections 1 and 2,
14 Township 54 South, Range 39 East, lying north of Tamiami
15 Trail.

16 (4) The identification of the Miami-Dade County Lake
17 Belt Area shall not preempt local land use jurisdiction or the
18 use of land for other purposes by private land owners;
19 provided, however, local comprehensive plans, zoning
20 regulations, development regulations, and other local
21 regulations shall accommodate limestone mining activities and
22 ancillary operations, such as lake excavation, including use
23 of explosives, rock processing, cement, concrete and asphalt
24 products manufacturing, and ancillary activities, within the
25 rock mining supported and allowable areas of the Miami-Dade
26 County Lake Plan adopted by subsection (1); provided, however,
27 that limerock mining activities are consistent with wellfield
28 protection. Rezoning or amendments to local comprehensive
29 plans concerning properties that are located within 1 mile of
30 the Miami-Dade Lake Belt Area shall be compatible with
31 limestone mining activities. No rezonings, variances, or

1 amendments to local comprehensive plans for any residential
2 purpose may be approved for any property located in sections
3 35 and 36 and the east one-half of sections 24 and 25,
4 Township 53 South, Range 39 East until such time as there is
5 no active mining within 2 miles of the property. This section
6 does not preclude residential development that complies with
7 current regulations.

8 (5) Beginning October 1, 1999, before the sale, lease,
9 or the issuance of a development order, including the approval
10 of a change in land use designation or zoning, for any real
11 property located inside the Miami-Dade Lake Belt Area or
12 within 2 miles of the boundary of the Miami-Dade Lake Belt
13 Area, the entity holding title to the real property is
14 required to submit a written affidavit of disclosure to
15 Miami-Dade County in a form prescribed by the county that is
16 suitable for recording:

17 (a) Acknowledging the existence of limestone mining
18 activities involving the use of explosives within close
19 proximity of the real property proposed to be sold, leased,
20 used, or developed;

21 (b) Agreeing to provide copies of the affidavit of
22 disclosure to all subsequent parties to whom whole or part
23 interest in the real property is transferred, by sale, lease,
24 or any other means; and

25 (c) Acknowledging potential civil liability, as well
26 as fines and penalties that could result from failure to
27 provide disclosure under this section.

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29 Failure to substantially comply with the provisions of this
30 subsection makes the sale of the real property or interest
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1 therein voidable at the purchaser's option for a period of 7
2 years from the date of the affidavit of disclosure.

3 (6)~~(4)~~ The Miami-Dade ~~Dade~~ County Lake Belt Plan
4 Implementation Committee shall be appointed by the governing
5 board of the South Florida Water Management District to
6 develop a strategy for the design and implementation of the
7 Miami-Dade ~~Dade~~ County Lake Belt Plan. The committee shall
8 consist of the chair of the governing board of the South
9 Florida Water Management District, who shall serve as chair of
10 the committee, the policy director of Environmental and Growth
11 Management in the office of the Governor, the secretary of the
12 Department of Environmental Protection, the director of the
13 Division of Resource Management or its successor division
14 within the Department of Environmental Protection, the
15 director of the Office of Tourism, Trade, and Economic
16 Development within the office of the Governor, the secretary
17 of the Department of Community Affairs, the executive director
18 of the Game and Freshwater Fish Commission, the director of
19 the Department of Environmental Resource Management of
20 Miami-Dade ~~Dade~~ County, the director of the Miami-Dade ~~Dade~~
21 County Water and Sewer Department, the Director of Planning in
22 Miami-Dade ~~Dade~~ County, a representative of the Friends of the
23 Everglades, a representative of the Florida Audubon Society, a
24 representative of the Florida chapter of the Sierra Club, four
25 representatives ~~a representative~~ of the nonmining private
26 landowners within the Miami-Dade ~~Dade~~ County Lake Belt Area,
27 and four representatives from the limestone mining industry to
28 be appointed by the governing board of the South Florida Water
29 Management District. Two ex officio seats on the committee
30 will be filled by one member of the Florida House of
31 Representatives to be selected by the Speaker of the House of

1 Representatives from among representatives whose districts, or
2 some portion of whose districts, are included within the
3 geographical scope of the committee as described in subsection
4 (3), and one member of the Florida Senate to be selected by
5 the President of the Senate from among senators whose
6 districts, or some portion of whose districts, are included
7 within the geographical scope of the committee as described in
8 subsection (3). The committee may appoint other ex officio
9 members, as needed, by a majority vote of all committee
10 members. A committee member may designate in writing an
11 alternate member who, in the member's absence, may participate
12 and vote in committee meetings.

13 (7)~~(5)~~ The committee shall develop Phase II of the
14 Lake Belt Plan which shall:

15 (a) Include a detailed master plan to further
16 implementation;

17 (b) Consider the feasibility of a common mitigation
18 plan for nonrock mining uses, including a nonrock mining
19 mitigation fee. Any mitigation fee shall be for the limited
20 purpose of offsetting the loss of wetland functions and values
21 and not as a revenue source for other purposes.

22 (c)~~(b)~~ Further address compatible land uses,
23 opportunities, and potential conflicts;

24 (d)~~(c)~~ Provide for additional wellfield protection;

25 (e)~~(d)~~ Provide measures to prevent the
26 reclassification of the Northwest Miami-Dade ~~Dade~~ County wells
27 as groundwater under the direct influence of surface water;
28 i~~r~~

28 (f)~~(e)~~ Secure additional funding sources; ~~and~~

29 (g)~~(f)~~ Consider the need to establish a land
30 authority; ~~and~~

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1 (h) Analyze the hydrological impacts resulting from
2 the future mining included in the Lake Belt Plan and recommend
3 appropriate mitigation measures, if needed, to be incorporated
4 into the Lake Belt Mitigation Plan.

5 ~~(8)(6)~~ The committee shall remain in effect until
6 January 1, 2002 ~~2001~~, and shall meet as deemed necessary by
7 the chair. The committee shall monitor and direct progress
8 toward developing and implementing the plan. The committee
9 shall submit progress reports to the governing board of the
10 South Florida Water Management District and the Legislature by
11 December 31 of each year. These reports shall include a
12 summary of the activities of the committee, updates on all
13 ongoing studies, any other relevant information gathered
14 during the calendar year, and the committee recommendations
15 for legislative and regulatory revisions. The committee shall
16 submit a Phase II report and plan to the governing board of
17 the South Florida Water Management District and the
18 Legislature by December 31, 2000, to supplement the Phase I
19 report submitted on February 28, 1997. The Phase II report
20 must include the detailed master plan for the Miami-Dade ~~Dade~~
21 County Lake Belt Area together with the final reports on all
22 studies, the final recommendations of the committee, the
23 status of implementation of Phase I recommendations and other
24 relevant information, and the committee's recommendation for
25 legislative and regulatory revisions.

26 ~~(9)(7)~~ The committee shall report to the governing
27 board of the South Florida Water Management District
28 semiannually.

29 ~~(10)(8)~~ In carrying out its work, the committee shall
30 solicit comments from scientific and economic advisors and
31 governmental, public, and private interests. The committee

1 shall provide meeting notes, reports, and the strategy
2 document in a timely manner for public comment.

3 (11)~~(9)~~ The committee is authorized to seek from the
4 agencies or entities represented on the committee any grants
5 or funds necessary to enable it to carry out its charge.

6 ~~(10) The Department of Environmental Protection, in
7 conjunction with the South Florida Water Management District
8 and the Dade County Department of Environmental Resources
9 Management, is directed to develop a comprehensive mitigation
10 plan for the Dade County Lake Belt Plan, subject to approval
11 by the Legislature, which offsets the loss of wetland
12 functions and values resulting from rock mining in
13 mining supported and allowable areas.~~

14 (12)~~(11)~~ The secretary of the Department of
15 Environmental Protection, the secretary of the Department of
16 Community Affairs, the secretary of the Department of
17 Transportation, the Commissioner of Agriculture, the executive
18 director of the Game and Freshwater Fish Commission, and the
19 executive director of the South Florida Water Management
20 District may enter into agreements with landowners,
21 developers, businesses, industries, individuals, and
22 governmental agencies as necessary to effectuate the
23 provisions of this section.

24 (13)~~(12)~~(a) All agencies of the state shall review the
25 status of their landholdings within the boundaries of the
26 Miami-Dade ~~Dade~~ County Lake Belt. Those lands for which no
27 present or future use is identified must be made available,
28 together with other suitable lands, to the committee for its
29 use in carrying out the objectives of this act.

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1 (b) It is the intent of the Legislature that lands
2 provided to the committee be used for land exchanges to
3 further the objectives of this act.

4 Section 2. Section 373.41492, Florida Statutes, is
5 created to read:

6 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
7 mitigation for mining activities within the Miami-Dade County
8 Lake Belt.--

9 (1) The Legislature finds that the impact of mining
10 within the rock mining supported and allowable areas of the
11 Miami-Dade County Lake Plan adopted by s. 373.4149(1) can best
12 be offset by the implementation of the Lake Belt Mitigation
13 Plan recommended in the 1998 Progress Report to the Florida
14 Legislature by the Miami-Dade County Lake Belt Plan
15 Implementation Committee. The per-ton mitigation fee assessed
16 on limestone sold from the Miami-Dade County Lake Belt Area
17 and sections 10, 11, 13, 14, Township 52 South, Range 39 East,
18 and sections 24, 25, 35, and 36, Township 53 South, Range 39
19 East, shall be used for acquiring environmentally sensitive
20 lands and for restoration, maintenance, and other
21 environmental purposes. It is the intent of the Legislature
22 that the per-ton mitigation fee shall not be a revenue source
23 for purposes other than enumerated herein. Further, the
24 Legislature finds that the public benefit of a sustainable
25 supply of limestone construction materials for public and
26 private projects requires a coordinated approach to permitting
27 activities on wetlands within Miami-Dade County in order to
28 provide the certainty necessary to encourage substantial and
29 continued investment in the limestone processing plant and
30 equipment required to efficiently extract the limestone
31 resource. It is the intent of the Legislature that the Lake

1 Belt Mitigation Plan satisfy all local, state, and federal
2 requirements for mining activity within the rock mining
3 supported and allowable areas.

4 (2) To provide for the mitigation of wetland resources
5 lost to mining activities within the Miami-Dade County Lake
6 Belt Plan, effective October 1, 1999, a mitigation fee is
7 imposed on each ton of limerock and sand extracted by any
8 person who engages in the business of extracting limerock or
9 sand from within the Miami-Dade County Lake Belt Area and
10 sections 10, 11, 13, 14, Township 52 South, Range 39 East, and
11 sections 24, 25, 35, and 36, Township 53 South, Range 39 East.
12 The mitigation fee is at the rate of 5 cents for each ton of
13 limerock and sand sold from within the properties where the
14 fee applies in raw, processed, or manufactured form,
15 including, but not limited to, sized aggregate, asphalt,
16 cement, concrete, and other limerock and concrete products.
17 Any limerock or sand that is used within the mine from which
18 the limerock or sand is extracted is exempt from the fee. The
19 amount of the mitigation fee imposed under this section must
20 be stated separately on the invoice provided to the purchaser
21 of the limerock product from the limerock miner, or its
22 subsidiary or affiliate, for which the mitigation fee applies.
23 The limerock miner, or its subsidiary or affiliate, who sells
24 the limerock product shall collect the mitigation fee and
25 forward the proceeds of the fee to the Department of Revenue
26 on or before the 20th day of the month following the calendar
27 month in which the sale occurs.

28 (3) The mitigation fee imposed by this section must be
29 reported to the Department of Revenue. Payment of the
30 mitigation fee must be accompanied by a form prescribed by the
31 Department of Revenue. The proceeds of the fee, less

1 administrative costs, must be transferred by the Department of
2 Revenue to the South Florida Water Management District and
3 deposited into the Lake Belt Mitigation Trust Fund. As used in
4 this section, the term "proceeds of the fee" means all funds
5 collected and received by the Department of Revenue under this
6 section, including interest and penalties on delinquent
7 mitigation fees. The amount deducted for administrative costs
8 may not exceed 3 percent of the total revenues collected under
9 this section and may equal only those administrative costs
10 reasonably attributable to the mitigation fee.

11 (4)(a) The Department of Revenue shall administer,
12 collect, and enforce the mitigation fee authorized under this
13 section in accordance with the procedures used to administer,
14 collect, and enforce the general sales tax imposed under
15 chapter 212. The provisions of chapter 212 with respect to the
16 authority of the Department of Revenue to audit and make
17 assessments, the keeping of books and records, and the
18 interest and penalties imposed on delinquent fees apply to
19 this section. The fee may not be included in computing
20 estimated taxes under s. 212.11, and the dealer's credit for
21 collecting taxes or fees provided for in s. 212.12 does not
22 apply to the mitigation fee imposed by this section.

23 (b) In administering this section, the Department of
24 Revenue may employ persons and incur expenses for which funds
25 are appropriated by the Legislature. The Department of Revenue
26 shall adopt rules and prescribe and publish forms necessary to
27 administer this section. The Department of Revenue shall
28 establish audit procedures and may assess delinquent fees.

29 (5) Beginning January 1, 2001, and each January 1
30 thereafter, the per-ton mitigation fee shall be increased by
31 2.1 percentage points, plus a cost growth index. The cost

1 growth index shall be the percentage change in the weighted
2 average of the Employment Cost Index for All Civilian Workers
3 (ecu 10001I), issued by the United States Department of Labor
4 for the most recent 12-month period ending on September 30,
5 and the percentage change in the Producer Price Index for All
6 Commodities (WPU 00000000), issued by the United States
7 Department of Labor for the most recent 12-month period ending
8 on September 30, compared to the weighted average of these
9 indices for the previous year. The weighted average shall be
10 calculated as 0.6 times the percentage change in the
11 Employment Cost Index for All Civilian Workers (ecu 10001I),
12 plus 0.4 times the percentage change in the Producer Price
13 Index for All Commodities (WPU 00000000). If either index is
14 discontinued, it shall be replaced by its successor index, as
15 identified by the United States Department of Labor.

16 (6)(a) The proceeds of the mitigation fee must be used
17 to conduct mitigation activities that are appropriate to
18 offset the loss of the value and functions of wetlands as a
19 result of mining activities and must be used in a manner
20 consistent with the recommendations contained in the reports
21 submitted to the Legislature by the Miami-Dade County Lake
22 Belt Plan Implementation Committee and adopted under s.
23 373.4149. Such mitigation may include the purchase,
24 enhancement, restoration, and management of wetlands and
25 uplands, the purchase of mitigation credit from a permitted
26 mitigation bank, and any structural modifications to the
27 existing drainage system to enhance the hydrology of the
28 Miami-Dade County Lake Belt Area. Funds may also be used to
29 reimburse other funding sources, including the Save Our Rivers
30 Land Acquisition Program and the Internal Improvement Trust
31 Fund, for the purchase of lands that were acquired in areas

1 appropriate for mitigation due to rock mining and to reimburse
2 governmental agencies that exchanged land under s. 373.4149
3 for mitigation due to rockmining.

4 (b) Expenditures must be approved by an interagency
5 committee consisting of representatives from each of the
6 following: the Miami-Dade County Department of Environmental
7 Resource Management, the Department of Environmental
8 Protection, the South Florida Water Management District, and
9 the Game and Fresh Water Fish Commission. In addition, the
10 limerock mining industry shall select a representative to
11 serve as a nonvoting member of the interagency committee. At
12 the discretion of the committee, additional members may be
13 added to represent federal regulatory, environmental, and fish
14 and wildlife agencies.

15 (7) Payment of the fee imposed by this section
16 satisfies the mitigation requirements imposed under ss.
17 373.403-373.439 and any applicable county ordinance for loss
18 of the value and functions from mining of the wetlands
19 identified as rockmining supported and allowable areas of the
20 Miami-Dade County Lake Plan adopted by s. 373.4149(1). In
21 addition, it is the intent of the Legislature that the payment
22 of the mitigation fee imposed by this section satisfy all
23 federal mitigation requirements for the wetlands mined.

24 (8) If a general permit by the United States Army
25 Corps of Engineers, or an appropriate long-term permit for
26 mining, consistent with the Miami-Dade County Lake Belt Plan,
27 this section, and ss. 373.4149, 373.4415, and 378.4115 is not
28 issued on or before September 30, 2000, the fee imposed by
29 this section is suspended until revived by the Legislature.

30 (9)(a) The interagency committee established in this
31 section shall annually prepare and submit to the governing

1 board of the South Florida Water Management District a report
2 evaluating the mitigation costs and revenues generated by the
3 mitigation fee.

4 (b) No sooner than January 31, 2010, and no more
5 frequently than every 10 years thereafter, the interagency
6 committee shall submit to the Legislature a report
7 recommending any needed adjustments to the mitigation fee to
8 ensure that the revenue generated reflects the actual costs of
9 the mitigation.

10 Section 3. Section 373.4415, Florida Statutes, is
11 amended to read:

12 373.4415 Role of Miami-Dade ~~Dade~~ County in processing
13 permits for limerock mining in Miami-Dade ~~Dade~~ County Lake
14 Belt.--The department and Miami-Dade ~~Dade~~ County shall
15 cooperate to establish and fulfill reasonable requirements for
16 the departmental delegation to the Miami-Dade ~~Dade~~ County
17 Department of Environmental Resource Management of authority
18 to implement the permitting program under ss. 373.403-373.439
19 for limerock mining activities within the geographic area of
20 the Miami-Dade ~~Dade~~ County Lake Belt which was recommended for
21 mining in the report submitted to the Legislature in February
22 1997 by the Miami-Dade ~~Dade~~ County Lake Belt Plan
23 Implementation Committee under s. 373.4149. The delegation of
24 authority must be consistent with s. 373.441 and chapter
25 62-344, Florida Administrative Code. To further streamline
26 permitting within the Miami-Dade ~~Dade~~ County Lake Belt, the
27 department and Miami-Dade ~~Dade~~ County are encouraged to work
28 with the United States Army Corps of Engineers to establish a
29 general permit under s. 404 of the Clean Water Act for
30 limerock mining activities within the geographic area of the
31 Miami-Dade ~~Dade~~ County Lake Belt consistent with the report

1 submitted in February 1997. Miami-Dade ~~Dade~~ County is further
2 encouraged to seek delegation from the United States Army
3 Corps of Engineers for the implementation of any such general
4 permit. This section does not limit the authority of the
5 department to delegate other responsibilities to Miami-Dade
6 ~~Dade~~ County under this part.

7 Section 4. Section 378.4115, Florida Statutes, is
8 amended to read:

9 378.4115 County certification for limerock mining in
10 the Miami-Dade ~~Dade~~ County Lake Belt.--The department and
11 Miami-Dade ~~Dade~~ County shall cooperate to establish and
12 fulfill reasonable requirements for the departmental
13 certification of the Miami-Dade ~~Dade~~ County Department of
14 Environmental Resource Management to implement the reclamation
15 program under ss. 378.401-378.503 for limerock mining
16 activities within the geographic area of the Miami-Dade ~~Dade~~
17 County Lake Belt which was recommended for mining in the
18 report submitted to the Legislature in February 1997 by the
19 Miami-Dade ~~Dade~~ County Lake Belt Plan Implementation Committee
20 under s. 373.4149. The delegation of implementing authority
21 must be consistent with s. 378.411 and chapter 62C-36, Florida
22 Administrative Code. Further, the reclamation program shall
23 maximize the efficient mining of limestone and the littoral
24 area surrounding the lake excavations shall not be required to
25 be greater than 100 feet average in width.

26 Section 5. If any provision of this act or the
27 application thereof to any person or circumstance is held
28 invalid, the invalidity shall not affect other provisions or
29 applications of the act which can be given effect without the
30 invalid provision or application, and to this end the
31 provisions of this act are declared severable.

1 Section 6. This act shall take effect upon becoming a
2 law.

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 2238

7 Deletes legislative intent language providing that the
8 adoption of the Miami-Dade Lake Belt Plan is not intended to
9 preempt local comprehensive plan or zoning regarding other
10 uses within the Miami-Dade Lake Belt Plan Area.

11 Clarifies the legal description of the Miami-Dade Lake Belt
12 Plan Area.

13 Clarifies that the Lake Belt Mitigation Plan is the plan
14 recommended in the 1998 Progress Report to the Legislature by
15 the Miami-Dade County Lake Belt Plan Implementation Committee.

16 Provides that limerock mining activities are consistent with
17 wellfield protection.

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