

HOUSE BILL No. 1871

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3-1; IC 4-2-1; IC 4-2.5; IC 4-3-3-1.1; IC 33-3-5-7; IC 33-5-37.7-5; IC 33-10.5-5-2; IC 33-13-12.

Synopsis: Public officers salary commission. Establishes the public officers salary commission consisting of seven members. Authorizes the commission to adopt administrative rules to govern the proceedings of the commission and to set the salaries of: (1) members of the general assembly; (2) the governor and other elected public officers in the executive branch of state government; and (3) the justices of the Indiana supreme court, the judges of the Indiana court of appeals, the judge of the Indiana tax court, and the judges of the circuit, superior, and county courts of Indiana. Provides that the general assembly retains authority to establish salaries by statute and to void a salary rule of the commission. Provides for the salary of public officers if the general
(Continued next page)

Effective: July 1, 1999; January 1, 2000.

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January 26, 1999, read first time and referred to Committee on Ways and Means.

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Digest Continued

assembly voids a salary rule of the commission or repeals a statute setting the salary of a public officer. Removes current salaries of public officers in the judicial branch from statute. Repeals current statutes setting the salaries of members of the general assembly and public officers in the executive branch. Makes certain other changes.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 1871

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-2.5 IS ADDED TO THE INDIANA CODE AS A
2 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1999]:
4 **ARTICLE 2.5. SALARIES OF PUBLIC OFFICERS**
5 **Chapter 1. Definitions**
6 **Sec. 1. The definitions in this chapter apply throughout this**
7 **article.**
8 **Sec. 2. "Commission" refers to the public officers salary**
9 **commission established by IC 4-2.5-2-1.**
10 **Sec. 3. "Political subdivision" has the meaning set forth in**
11 **IC 36-1-2-13.**
12 **Sec. 4. "Public employee" refers to any of the following:**
13 (1) **An employee of the state.**
14 (2) **An employee of a political subdivision.**
15 (3) **An employee of any other entity whose salary is paid in**



1 any part from funds derived from taxes imposed by the state
2 or a political subdivision.

3 **Sec. 5. "Public officer" refers to any of the following:**

- 4 (1) A member of the general assembly.
5 (2) The governor.
6 (3) The lieutenant governor.
7 (4) The secretary of state.
8 (5) The auditor of state.
9 (6) The treasurer of state.
10 (7) The attorney general.
11 (8) The clerk of the supreme court.
12 (9) The superintendent of public instruction.
13 (10) A justice of the supreme court of Indiana.
14 (11) A judge of the court of appeals of Indiana.
15 (12) A judge of the Indiana tax court.
16 (13) A judge of a circuit, superior, or county court.

17 **Chapter 2. Public Officers Salary Commission**

18 **Sec. 1. The public officers salary commission is established.**

19 **Sec. 2. (a) The commission consists of the following members:**

- 20 (1) One (1) member appointed by the governor upon the
21 recommendation of the speaker of the house of
22 representatives.
23 (2) One (1) member appointed by the governor upon the
24 recommendation of the minority leader of the house of
25 representatives.
26 (3) One (1) member appointed by the governor upon the
27 recommendation of the president pro tempore of the senate.
28 (4) One (1) member appointed by the governor upon the
29 recommendation of the minority leader of the senate.
30 (5) One (1) member appointed by the governor upon the
31 recommendation of the chief justice of the supreme court of
32 Indiana.
33 (6) Two (2) members appointed by the governor. The
34 members appointed under this subdivision may not be
35 affiliated with the same political party.

36 (b) The governor may reject a recommendation for appointment
37 to the commission made under subsection (a)(1) through (a)(5). If
38 the governor rejects a recommendation for appointment, the public
39 officer required to make a recommendation shall make a new
40 recommendation to the governor under subsection (a).

41 (c) A public officer or a public employee may not be a
42 commission member.



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1 **Sec. 3. (a) The term of a commission member begins July 1 after**
2 **the governor appoints the member.**

3 **(b) The term of a commission member expires on July 1 of the**
4 **fourth year after the year the member's term begins.**

5 **(c) The governor may reappoint a member to serve a new term.**

6 **Sec. 4. (a) If there is a vacancy on the commission, the public**
7 **officer who made the recommendation for appointment of the**
8 **member whose position is vacant shall recommend to the governor**
9 **the name of an individual to fill the vacancy as provided in section**
10 **2 of this chapter.**

11 **(b) The member appointed under this section shall fill the**
12 **vacancy for the remainder of the unexpired term.**

13 **Sec. 5. (a) At the commission's last meeting before July 1 of each**
14 **year, the commission shall elect one (1) member to be chair of the**
15 **commission.**

16 **(b) The member who is elected chair of the commission serves**
17 **as chair beginning July 1 after elected by the commission.**

18 **Sec. 6. Four (4) commission members constitute a quorum. The**
19 **affirmative vote of at least four (4) commission members is**
20 **necessary for the commission to take official action other than to**
21 **do the following:**

22 **(1) Adjourn.**

23 **(2) Hear reports or testimony.**

24 **Sec. 7. The commission shall meet at least two (2) times each**
25 **year at the call of the chair.**

26 **Sec. 8. Each member of the commission is entitled to the**
27 **following:**

28 **(1) The salary per diem provided under IC 4-10-11-2.1(b).**

29 **(2) Reimbursement for traveling expenses as provided under**
30 **IC 4-13-1-4.**

31 **(3) Other expenses actually incurred in connection with the**
32 **member's duties as provided in the state policies and**
33 **procedures established by the Indiana department of**
34 **administration and approved by the budget agency.**

35 **Sec. 9. The state personnel department shall provide**
36 **administrative support for the commission. At the request of the**
37 **state personnel department, the legislative services agency or the**
38 **chief justice shall assign staff to provide research and other**
39 **support to assist the state personnel department in providing**
40 **administrative support to the commission.**

41 **Sec. 10. The commission may adopt rules under IC 4-22-2 to do**
42 **the following:**

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1 (1) Fix salaries of public officers.

2 (2) Govern commission proceedings.

3 **Sec. 11.** There is appropriated to the state personnel department
4 from the state general fund money necessary for the operation of
5 the commission.

6 **Chapter 3. Adoption of Rules to Set Salaries of Public Officers**

7 **Sec. 1.** The commission shall meet at least one (1) time each year
8 to do the following:

9 (1) Receive information relating to the salaries of public
10 officers.

11 (2) Consider recommendations for appropriate salaries for
12 public officers.

13 (3) Take testimony relating to the salaries of public officers.

14 (4) Adopt, if necessary, proposed rules to set the salaries of
15 any public officers. The commission is not required to set the
16 salary of a particular public officer if the commission
17 considers the current salary appropriate.

18 **Sec. 2.** (a) If the commission adopts proposed rules under
19 section 1 of this chapter, the commission shall meet at least one (1)
20 time each year before November 1 to adopt any final rules based
21 on proposed rules adopted under section 1 of this chapter.

22 (b) The commission is not required to adopt or amend a rule to
23 change the salary of a public officer if the commission considers
24 the current salary appropriate.

25 (c) If the commission does not adopt a rule relating to the salary
26 of a public officer, the salary of the public officer is the salary
27 currently provided by law.

28 **Sec. 3.** A final rule adopted under section 2 of this chapter must
29 be published in the December edition of the Indiana Register.

30 **Sec. 4.** (a) When determining an appropriate salary for a public
31 officer, the commission may consider the following:

32 (1) The increase in the cost of living in Indiana since the most
33 recent increase in the salary of the state officer.

34 (2) The salaries paid to government officers in other states
35 that have comparable duties and authority.

36 (3) Salaries paid to comparable professionals in the private
37 sector.

38 (4) Benefits other than salaries provided to state officers as
39 compared to government officers in other states or in the
40 private sector.

41 (5) Ability to attract and retain qualified individuals to be
42 state officers.



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1 **(6) Other factors the commission considers relevant.**

2 **(b) The commission may give whatever weight to the factors**
 3 **described in subsection (a) that the commission considers**
 4 **appropriate.**

5 **Sec. 5. A rule adopted by the commission to set the salaries of a**
 6 **public officer takes effect as follows:**

7 **(1) If the rule relates to the salary of the governor, the final**
 8 **rule:**

9 **(A) must be published not later than December 1 of the**
 10 **year before a general election for governor; and**

11 **(B) takes effect on the second Monday in January after an**
 12 **election for governor if the general assembly has not**
 13 **voided the rule.**

14 **(2) If the rule relates to the salary of members of the general**
 15 **assembly, the final rule:**

16 **(A) must be published not later than December 1 of the**
 17 **year before a general election for members of the general**
 18 **assembly; and**

19 **(B) takes effect January 1 after a general election for**
 20 **members of the general assembly if the general assembly**
 21 **has not voided the rule.**

22 **(3) If the rule relates to the salary of a public officer other**
 23 **than the governor or a member of the general assembly, the**
 24 **final rule:**

25 **(A) may be published on December 1 of any year; and**

26 **(B) if the general assembly has not voided the rule, takes**
 27 **effect on the later of the following:**

28 **(i) July 1 after sine die adjournment of the session of the**
 29 **general assembly that follows publication of the rule**
 30 **under clause (A).**

31 **(ii) The first day that a new term of office for the public**
 32 **officer begins.**

33 **Sec. 6. A rule relating to the salary of a public officer described**
 34 **in Article 7, Section 19 of the Constitution of the State of Indiana**
 35 **may not diminish the compensation of the public officer.**

36 **Sec. 7. This article does not affect the authority of the general**
 37 **assembly to do the following:**

38 **(1) Set salaries of public officers by statute.**

39 **(2) Subject to section 6 of this chapter, void a rule of the**
 40 **commission by statute before or after the rule takes effect.**

41 **Sec. 8. (a) If the general assembly voids a rule of the commission**
 42 **or repeals a statute that sets the salary of a public officer, the**

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1 salary of the public officer is the salary of the public officer set in
2 the most recent rule or statute in effect.

3 (b) If the general assembly voids a rule of the commission or
4 repeals a statute that sets the salary of a public officer, the
5 commission shall adopt a rule that states the salary of the public
6 officer set in the most recent rule or statute in effect.

7 SECTION 2. IC 4-3-3-1.1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1.1. (a) An
9 individual who holds the office of governor for any length of time
10 during one (1) term of that office is entitled to receive an annual
11 retirement benefit under subsection (e). Provided, however, an
12 individual who succeeds to the office of governor without being elected
13 is not entitled to an annual retirement benefit under this section unless
14 such person serves for more than one (1) year of the term of the office.

15 (b) An individual who holds the office of governor for any length of
16 time during each of two (2) separate terms of that office is entitled to
17 receive an annual retirement benefit under subsection (f).

18 (c) If an individual who holds the office of governor resigns or is
19 removed from office, during a term of that office, for any reason except
20 a mental or physical disability that renders him unable to discharge the
21 powers and duties of the office, then the term during which he resigned
22 or was removed may not be considered for determining his annual
23 retirement benefit under this section.

24 (d) The retirement benefit shall be paid in equal monthly
25 installments by the treasurer of state on warrant of the auditor of state
26 after a claim has been made for the retirement benefit to the auditor by
27 the governor or a person acting on his behalf. A governor shall choose
28 the date on which he will begin receiving his retirement benefit;
29 however, the date must be the first state employee payday of a month.
30 A governor may not receive the retirement benefit as long as he holds
31 an elective position with any federal, state, or local governmental unit,
32 and he may not receive the retirement benefit until he has reached at
33 least age sixty-two (62) years. The governor's choice of initial benefit
34 payment date and the governor's choice of benefit payment amount
35 under subsections (e) and (f) are revocable until the governor receives
36 the first monthly installment of his retirement benefit; after that
37 installment is received, the choice of date and the choice of amount are
38 irrevocable.

39 (e) With respect to a governor who is entitled to a retirement benefit
40 under subsection (a):

41 (1) if he chooses to begin receiving his retirement benefit on or
42 after the date he reaches age sixty-two (62) years but before he

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- 1 reaches age sixty-five (65) years, he may choose to receive:
- 2 (A) the retirement benefits he is entitled to, if any, from the
- 3 public employees' retirement fund; or
- 4 (B) thirty percent (30%) of the governor's annual salary set ~~in~~
- 5 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life; or
- 6 (2) if he chooses to begin receiving his retirement benefit on or
- 7 after the date he reaches age sixty-five (65) years, he may choose
- 8 to receive:
- 9 (A) the retirement benefits he is entitled to, if any, from the
- 10 public employees' retirement fund; or
- 11 (B) forty percent (40%) of the governor's annual salary set ~~in~~
- 12 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life.
- 13 (f) With respect to a governor who is entitled to a retirement benefit
- 14 under subsection (b):
- 15 (1) if he chooses to begin receiving his retirement benefit on or
- 16 after the date he reaches age sixty-two (62) years but before he
- 17 reaches age sixty-five (65) years, he may choose to receive:
- 18 (A) the retirement benefits he is entitled to, if any, from the
- 19 public employees' retirement fund;
- 20 (B) forty percent (40%) of the governor's annual salary set ~~in~~
- 21 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life; or
- 22 (2) if he chooses to begin receiving his retirement benefit on or
- 23 after the date he reaches age sixty-five (65) years, he may choose
- 24 to receive:
- 25 (A) the retirement benefits he is entitled to, if any, from the
- 26 public employees' retirement fund; or
- 27 (B) fifty percent (50%) of the governor's annual salary set ~~in~~
- 28 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life.
- 29 **SECTION 3. IC 33-3-5-7 IS AMENDED TO READ AS FOLLOWS**
- 30 **[EFFECTIVE JANUARY 1, 2000]:** Sec. 7. (a) The judge of the tax
- 31 court is entitled to an annual salary equal to the annual salary provided
- 32 ~~in IC 33-13-12-9~~ **under IC 4-2.5** to a judge of the court of appeals. In
- 33 addition, the judge of the tax court is entitled to the following:
- 34 (1) Reimbursement for traveling expenses and other expenses
- 35 actually incurred in connection with the judge's duties, as
- 36 provided in the state travel policies and procedures established by
- 37 the department of administration and approved by the budget
- 38 agency.
- 39 (2) A subsistence allowance equal to the amount provided under
- 40 IC 33-13-12-9 to a judge of the court of appeals who is not the
- 41 chief judge of the court of appeals.
- 42 (b) The judge of the tax court:

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1 (1) shall devote full time to judicial duties; and

2 (2) may not engage in the practice of law.

3 (c) The state shall pay the annual salary prescribed in subsection (a)
4 from the state general fund.

5 (d) The state shall furnish an automobile to the judge of the state tax
6 court.

7 SECTION 4. IC 33-5-37.7-5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. The judge of
9 the court is entitled to the salary ~~set out in IC 33-13-12;~~ **set under**
10 **IC 4-2.5**. The salary shall be paid in the same manner as the salary of
11 a circuit court judge, and the portion of the salary to be paid by the
12 counties shall be paid by Ohio and Switzerland counties in equal
13 portions.

14 SECTION 5. IC 33-10.5-5-2 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The salary
16 of a county court judge who serves more than one (1) county shall be
17 paid by the respective counties in equal amounts.

18 (b) The salary of every county court judge, as set ~~by IC 33-13-12;~~
19 **under IC 4-2.5**, shall be paid in equal monthly installments.

20 SECTION 6. IC 33-13-12-7.1 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7.1. (a) The total
22 annual salary of each full-time judge of a circuit, superior, municipal,
23 county, or probate court is ~~ninety thousand dollars (\$90,000)~~ **the salary**
24 **set under IC 4-2.5** and any additional salary provided under
25 IC 36-2-5-14 or IC 36-3-6-3(c). The state shall pay all of the total
26 salary except for the additional salary, if any, under IC 36-2-5-14 or
27 IC 36-3-6-3(c). The state shall deposit quarterly the money received
28 from the counties under subsection (c) in the state general fund.

29 (b) Before November 2 of each year, the county auditor of each
30 county shall certify to the division of state court administration the
31 amounts, if any, to be provided by the county during the ensuing
32 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

33 (c) When making each payment under subsection (a), the county
34 shall determine for each judge whether the total of:

35 (1) the payment made on behalf of that judge;

36 (2) previous payments made on behalf of that judge in the same
37 calendar year; and

38 (3) the state share of the judge's salary under subsection (a);
39 exceeds the Social Security wage base established by the federal
40 government for that year. If the total does not exceed the Social
41 Security wage base, the payment on behalf of that judge must also be
42 accompanied by an amount equal to the employer's share of Social



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1 Security taxes and Medicare taxes. If the total does exceed the Social
 2 Security wage base, the part of the payment on behalf of the judge that
 3 is below the Social Security wage base must be accompanied by an
 4 amount equal to the employer's share of Social Security taxes and
 5 Medicare taxes, and the part of the payment on behalf of the judge that
 6 exceeds the Social Security wage base must be accompanied by an
 7 amount equal to the employer's share of Medicare taxes. Payments
 8 made under this subsection shall be deposited in the state general fund
 9 under subsection (a).

10 (d) For purposes of determining the amount of life insurance
 11 premiums to be paid by a judge who participates in a life insurance
 12 program that:

- 13 (1) is established by the state;
- 14 (2) applies to a judge who is covered by this section; and
- 15 (3) bases the amount of premiums to be paid by the judge on the
 16 amount of the judge's salary;

17 the judge's salary does not include any amounts paid to the state by a
 18 county under subsection (a).

19 SECTION 7. IC 33-13-12-9 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) ~~The total~~
 21 ~~annual salary for each justice of the supreme court of Indiana is one~~
 22 ~~hundred fifteen thousand dollars (\$115,000).~~

23 ~~(b) The total annual salary for each judge of the court of appeals of~~
 24 ~~Indiana is one hundred ten thousand dollars (\$110,000).~~

25 ~~(c) The state shall pay the annual salaries prescribed in subsections~~
 26 ~~(a) through (b) from the state general fund.~~

27 ~~(d) In addition to said the salary of a justice of the supreme court~~
 28 ~~of Indiana or a judge of the court of appeals of Indiana set under~~
 29 ~~IC 4-2.5, there shall be paid in equal monthly payments on the first day~~
 30 ~~of each month out of any money in the general fund of the state~~
 31 ~~treasury not otherwise appropriated, the following annual subsistence~~
 32 ~~allowances to assist in defraying expenses relating to or resulting from~~
 33 ~~the discharge of the justice's or judge's official duties, for which no~~
 34 ~~accounting shall be made by such judge:~~

- 35 (1) Five thousand five hundred dollars (\$5,500) to the chief
 36 justice of the supreme court.
- 37 (2) Five thousand five hundred dollars (\$5,500) to the chief judge
 38 of the court of appeals.
- 39 (3) Three thousand dollars (\$3,000) to each justice of the supreme
 40 court who is not the chief justice.
- 41 (4) Three thousand dollars (\$3,000) to each judge of the court of
 42 appeals who is not the chief judge.



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1 (e) (b) The state shall not furnish automobiles for the use of justices
2 or judges compensated under ~~this section~~. IC 4-2.5.

3 SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE
4 JANUARY 1, 2000]: IC 2-3-1; IC 4-2-1.

5 SECTION 9. [EFFECTIVE JULY 1, 1999] (a) As used in this
6 SECTION, "commission" refers to the public officers salary
7 commission established by IC 4-2.5-2-1, as added by this act.

8 (b) Notwithstanding IC 4-2.5-2-3, as added by this act, the term
9 of a commission member expires as follows:

10 (1) The term of a member recommended for appointment by
11 the speaker of the house of representatives under
12 IC 4-2.5-2-2(1) expires July 1, 2003.

13 (2) The term of a member recommended for appointment by
14 the president pro tempore of the senate under IC 4-2.5-2-2(3)
15 expires July 1, 2003.

16 (3) The term of a member recommended for appointment by
17 the minority leader of the house of representatives under
18 IC 4-2.5-2-2(2) expires July 1, 2002.

19 (4) The term of a member recommended for appointment by
20 the minority leader of the senate under IC 4-2.5-2-2(4) expires
21 July 1, 2002.

22 (5) The term of a member recommended for appointment by
23 the chief justice of the supreme court of Indiana under
24 IC 4-2.5-2-2(5) expires July 1, 2001.

25 (6) The term of a member appointed by the governor under
26 IC 4-2.5-2-2(a)(6), as added by this act, expires as follows:

27 (A) The term of one (1) member expires July 1, 2003.

28 (B) The term of one (1) member expires July 1, 2002.

29 When making an appointment under this subdivision, the
30 governor shall state, subject to this subdivision, the date when
31 the term of the member expires.

32 (c) This SECTION expires July 1, 2003.

33 SECTION 10. [EFFECTIVE JULY 1, 1999] (a) As used in this
34 SECTION, "commission" refers to the public officers salary
35 commission established by IC 4-2.5-2-1, as added by this act.

36 (b) As used in this SECTION, "public officer" has the meaning
37 set forth in IC 4-2.5-1-5, as added by this act.

38 (c) Notwithstanding IC 4-2.5-3, as added by this act, the
39 commission shall adopt, before November 1, 1999, interim written
40 guidelines to set the salaries of all public officers.

41 (d) If the commission determines that the salary for a public
42 officer in effect on June 30, 1999, is currently appropriate, the

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1 **commission shall adopt an interim written guideline that sets the**
2 **salary for that public officer at the amount in effect on June 30,**
3 **1999.**

- 4 (e) **This SECTION expires on the earlier of the following:**
5 (1) **The date rules are adopted under IC 4-2.5-3, as added by**
6 **this act.**
7 (2) **July 1, 2000.**

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