

January 8, 2020

To: LAFCo Commissioners

From: Martha Poyatos, Executive Officer JL Royatos

Legislative Report Subject:

# **Summary**

The following report summarizes enacted changes to the Cortese Knox Hertzberg Local Government Reorganization Act. The CALAFCO Daily Legislative Report is attached.

# **Chaptered Bills:**

Of particular interest is AB 1628 (Rivas), Chapter 360 which amends the definition of "environmental justice" as a factor to be considered in review of a proposal. Section 56668(p) has been amended as follows (amendments are in underline):

(p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment <u>and meaningful involvement</u> of people of all races, cultures, incomes, and <u>national origins</u>, with respect to the location of public facilities and the provision of public services, <u>to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or <u>communities.</u></u>

Staff is concerned that as written, the amended language is ambiguous. As stated in AB 1628 (Rivas) and analysis by Senate and Assembly staff, the bill will highlight the issue of pollution burdens for communities and ensure that all voices are heard on the topic of environmental justice. Prior to the amendment, the factor addressed availability of public services (such as sewer and water) and the location of public facilities for people of all races, cultures, incomes, including disadvantaged communities. While the intent of the amendment in AB 1628 may have been to broaden the definition and add locating environmentally damaging facilities in disadvantaged communities in addition to availability of public services to disadvantaged communities, the new language is not clear.

| COMMISSIONERS: | JOSHUA COSGROVE, CHAIR, SPECIAL DISTRICT • WARREN SLOCUM, VICE CHAIR, COUNTY • RICH GARBARINO, CITY • DON |
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|                | HORSLEY, COUNTY • MIKE O'NEILL, CITY • RIC LOHMAN, SPECIAL DISTRICT • ANN DRAPER, PUBLIC                  |
| ALTERNATES:    | KATI MARTIN, SPECIAL DISTRICT • HARVEY RARBACK, CITY • JAMES O'NEILL, PUBLIC • DAVE PINE, COUNTY          |
| STAFF:         | MARTHA POYATOS, EXECUTIVE OFFICER • REBECCA ARCHER, LEGAL COUNSEL • ROB BARTOLI, MANAGEMENT               |
|                | ANALYST • ANGELA MONTES, CLERK  |

AB 1628 also amended the definition of environmental justice in two other sections of State government regulations. In these two cases, the definition now includes four statements of what environmental justice includes, but is not limited to. These statements provide clarity that is lacking in the amended language in Section 56668(p). An example of this definition is shown in 30107.3 of the Public Resources Code:

# SEC. 4.

Section 30107.3 of the Public Resources Code is amended to read:

# 30107.3.

(a) "Environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(b) "Environmental justice" includes, but is not limited to, all of the following:

(1) The availability of a healthy environment for all people.

(2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.

(4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

Staff recommends that the Legislative and Policy Committee consider local policy language to clarify how this factor will be considered in San Mateo County. The clarifying language would be included in the update of the Commission's Procedures for Evaluation of Proposals which is the next policy documented slated for update.

Other Chaptered Bills:

As with AB 1528, Staff will work with legal counsel and the Legislative and Policy Committee on any necessary changes or updates to San Mateo LAFCo policies.

• AB 508 (Chu), Chapter 352, Statutes of 2019

Drinking water: consolidation and extension of service: domestic wells.

This bill makes changes to statute related to the State Water Resources Control Board's

authority to order the consolidation of drinking water systems.

The Fairfield-Suisan Sewer District.

Makes a number of changes to the provisions of the Fairfield-Suisun Sewer District Act.

# • AB 600 (Chu), Chapter 612, Statutes of 2019

Local government: organization: disadvantaged unincorporated communities.

Makes changes to LAFCO requirements for approving specified annexations to disadvantaged unincorporated communities.

• SB 780 (Senate Committee on Governance and Finance), Chapter 329, Statutes of 2019

Requires county auditors to report vehicle license fee (VLF) adjustment amount information in an electronic format specified by State Controller's Office (SCO) and directs the SCO to compile and report this information on its website in a readily accessible electronic format (Revenue & Taxation Code Section 97.70). This bill also allows, among numerous other provisions, the Weed Recreation and Parks District to exercise the powers of a Cemetery District, if approved by the Siskiyou County LAFCO. (Public Resources Code)

• **AB 1628** (Rivas), Chapter 360, Statutes of 2019

Expands the definition of "environmental justice."

• AB 1822 (Committee on Local Government), Chapter 20, Statutes of 2019

Local Government: omnibus.

Makes several non-controversial changes to LAFCO statutes which govern local government organization and reorganization.

• AB 825 (Mullin), Chapter 292, Statutes of 2019

Makes numerous changes to the San Mateo County Flood Control District Act to allow the District to finance projects to address sea level rise.

Staff does not have any concerns or propose any actions regarding these other chaptered bills.

# Recommended Action:

Receive the report.

# **Attachments**

# CALAFCO Daily Legislative Report as of Tuesday, January 07, 2020

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#### AB 315 (Garcia, Cristina D) Local government: lobbying associations: expenditure of public funds. Current Text: Amended: 1/6/2020 html pdf

**Introduced:** 1/30/2019

# Last Amended: 1/6/2020

**Status:** 1/6/2020-From committee: Be re-referred to Com. on L. GOV. Re-referred. (Ayes 12. Noes 0.) (January 6). Re-referred to Com. on L. GOV. From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time and amended.

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#### Summary:

Current law authorizes the legislative body of a local agency, defined as a county, city, or city and county, or a district, defined broadly to include other political subdivisions or public corporations in the state other than the state or a county, city and county, or city, to attend the Legislature and the Congress of the United States, and any committees thereof, and to present information regarding legislation that the legislative body or the district deems to be beneficial or detrimental to the local agency or the district. Current law also authorizes the legislative body of a local agency or a district to enter into an association for these purposes and specifies that the cost and expense incident to the legislative body's or district's membership in the association and the activities of the association are proper charges against the local agencies or districts comprising the association. This bill, with respect to moneys paid to or otherwise received by an association from a local agency or districts from expending those moneys for any purpose other than the above-described activities and educational activities.

# Position: Watch

**CALAFCO Comments:** As gut and amended, this bill appears to have significant impact to CALAFCO in the uses of member LAFCo and certain Associate Member dues being limited to only direct educational activities or lobbying efforts (this means all administrative efforts not related to these two things including all travel not related to education or lobbying or public education campaign regarding LAFCo will have to cease). CALAFCO is engaging with other stakeholders and the author's office on the bill.

## AB 1253 (Rivas, Robert D) Local agency formation commissions: grant program.

# Current Text: Introduced: 2/21/2019 html pdf

# Introduced: 2/21/2019

**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was GOV. & F. on 6/6/2019)(May be acted upon Jan 2020)

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#### Summary:

This bill would require the Strategic Growth Council, until July 31, 2025, to establish and administer a local agency formation commissions grant program for the payment of costs associated with initiating and completing the dissolution of districts listed as inactive, the payment of costs associated with a study of the services provided within a county by a public agency to a disadvantaged community, as defined, and for other specified purposes, including the initiation of an action, as defined, that is limited to service providers serving a disadvantaged community and is based on determinations found in the study, as approved by the commission. The bill would specify application submission, reimbursement, and reporting requirements for a local agency formation commission to receive grants pursuant to the bill. The bill would require the council, after consulting with the California Association of Local Agency Formation Commissions, to develop and adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program, as specified, and would exempt these guidelines, timelines, and criteria from the rulemaking provisions of the Administrative Procedure Act. The bill would make the grant program subject to an appropriation for the program in the annual Budget Act, and would repeal these provisions on January 1, 2026. This bill contains other existing laws.

#### Attachments:

LAFCo Support Letter Template CALAFCO Support letter Feb 2016

# Position: Sponsor

**Subject:** Disadvantaged Communities, LAFCo Administration, Municipal Services, Special District Consolidations

**CALAFCO Comments:** This is a CALAFCO sponsored bill following up on the recommendation of the Little Hoover Commission report of 2017 for the Legislature to provide LAFCos one-time grant funding for in-depth studies of potential reorganization of local service providers. Last year, the Governor vetoed AB 2258 - this is the same bill. The Strategic Growth Council (SGC) will administer the grant program. Grant funds will be used specifically for conducting special studies to identify and support opportunities to create greater efficiencies in the provision of municipal services; to potentially initiate actions based on those studies that remove or reduce local costs thus incentivizing local agencies to work with the LAFCo in developing and implementing reorganization plans; and the dissolution of inactive districts (pursuant to SB 448, Wieckowksi, 2017). The grant program would sunset on July 31, 2024.

The bill also changes the protest threshold for LAFCo initiated actions, solely for the purposes of actions funded pursuant to this new section. It allows LAFCo to order the dissolution of a district (outside of the ones identified by the SCO) pursuant to Section 11221 of the Elections code, which is a tiered approach based on registered voters int he affected territory (from 30% down to 10% depending).

The focus is on service providers serving disadvantaged communities. The bill also requires LAFCo pay back grant funds in their entirety if the study is not completed within two years and requires the SGC to give preference to LAFCOs whose decisions have been aligned with the goals of sustainable communities strategies.

We were unsuccessful in getting the \$1.5 M into the budget so the author has decided to make this a 2-year bill and try again in the next budget. As this is a new Governor we are unsure about his willingness to make General Fund appropriations for items not in the budget.

# <u>AB 1389</u> (Eggman D) Special districts: change of organization: mitigation of revenue loss.

Current Text: Introduced: 2/22/2019 html pdf

Introduced: 2/22/2019

**Status:** 5/3/2019-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/14/2019)(May be acted upon Jan 2020)

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# Summary:

Would authorize the commission to propose, as part of the review and approval of a proposal for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, that the special district, to mitigate any loss of property taxes, franchise fees, and other revenues to any other affected local agency, provide payments to the affected local agency from the revenue derived from the proposed exercise of new or different functions or classes of service.

## Position: Watch

Subject: CKH General Procedures

**CALAFCO Comments:** This bill allows LAFCo, when approving a proposal for new or different functions or class of service for a special district, to propose the district provide payments to any affected local agency for taxes, fees or any other revenue that may have been lost as a result of the new service being provided.

## <u>AB 1751</u> (Chiu D) Water and sewer system corporations: consolidation of service.

Current Text: Amended: 7/5/2019 html pdf

**Introduced:** 2/22/2019

Last Amended: 7/5/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/12/2019)(May be acted upon Jan 2020)

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# Summary:

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board related responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2019, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

# Position: Watch

# Subject: Water

**CALAFCO Comments:** This bill would authorize a water or sewer system corporation to file an application and obtain approval from the PUC through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system. The bill would require the commission to approve or deny the app. Unless the commission designates a different procedure because it determines a consolidation warrants a more comprehensive review, the bill would authorize a water or sewer system corporation to instead file an advice letter and obtain approval from the commission through a resolution authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that

has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

#### **<u>SB 272</u>** (Morrell R) Fire Protection District Law of 1987.

Current Text: Amended: 4/4/2019 <u>html</u> pdf Introduced: 2/13/2019

Last Amended: 4/4/2019

**Status:** 5/3/2019-Failed Deadline pursuant to Rule 61(a)(3). (Last location was GOV. & F. on 2/21/2019)(May be acted upon Jan 2020)

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#### Summary:

The Fire Protection District Law of 1987 provides that whenever a district board determines that it is in the public interest to provide different services, to provide different levels of service, or to raise additional revenues within specific areas of the district, it may form one or more service zones by adopting a resolution that includes specified information, fixing the date, time, and place for public hearing on the formation of the zone, publishing notice, as specified, hearing and considering any protests to the formation of the zone at the hearing, and, at the conclusion of the hearing, adopting a resolution ordering the formation of the zone. If a resolution adopted after the public hearing would substantially expand the provision of services outside of an existing service zone and the extension of service would result in those persons in the expanded area paying charges for the expansion of services, this bill would provide that the resolution does not become effective unless approved by a majority of the voters within the expanded service area.

#### Position: Watch

**CALAFCO Comments:** As amended, the bill amends the Health & Safety code regarding the formation of zones within a fire protection district by requiring the district hold an election, regardless of the protest level, if the district wants to substantially expand (as defined in the bill) services outside the zone. This is unrelated to 56133. CALAFCO will retain a Watch position.

#### **<u>SB 414</u>** (<u>Caballero</u> D) Small System Water Authority Act of 2019.

Current Text: Amended: 6/25/2019 html pdf

Introduced: 2/20/2019

Last Amended: 6/25/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR.

SUSPENSE FILE on 8/21/2019)(May be acted upon Jan 2020)

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## Summary:

Would create the Small System Water Authority Act of 2019 and state legislative findings and

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declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

# **Position:** Support **Subject:** Water

**CALAFCO Comments:** This bill is very similar to AB 2050 (Caballero) from 2018. Several changes have been made. This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

LAFCo will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the state. LAFCo will have ability to approve with modifications the application, and the new agency will have to report to the LAFCo annually for the first 3 years.

2

# <u>AB 213</u> (<u>Reyes</u> D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Current Text: Introduced: 1/15/2019 html pdf

# Introduced: 1/15/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2019)(May be acted upon Jan 2020)

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#### Summary:

Would, for the 2019–20 fiscal year, require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2018–19 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018–19 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

#### Attachments:

CALAFCO Support Letter

## Position: Support

#### Subject: Tax Allocation

**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations. This bill is the same as AB 2268 (Reyes) from last year.

## AB 818 (Cooley D) Local government finance: vehicle license fee adjustment amounts.

Current Text: Introduced: 2/20/2019 html pdf

#### Introduced: 2/20/2019

**Status:** 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/3/2019)(May be acted upon Jan 2020)

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# Summary:

Current property tax law, for the 2006–07 fiscal year, and for each fiscal year thereafter, requires the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount for the prior fiscal year, if specified provisions did not apply, and the product of the amount as so described and the percentage change from the prior fiscal year in the gross taxable valuation within the jurisdiction of the entity. Current law establishes a separate vehicle license fee

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adjustment amount for a city that was incorporated after January 1, 2004, and on or before January 1, 2012. This bill would establish a separate vehicle license fee adjustment amount for a city incorporating after January 1, 2012, including an additional separate vehicle license fee adjustment amount for the first fiscal year of incorporation and for the next 4 fiscal years thereafter.

#### Attachments:

LAFCo Support letter template CALAFCO Support March 2019

## Position: Support

Subject: Financial Viability of Agencies

**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for cities incorporating after 2018. This is the same bill as AB 2491 from 2018.

#### <u>AB 1304</u> (<u>Waldron</u> R) Water supply contract: Native American tribes.

Current Text: Amended: 5/6/2019 html pdf

Introduced: 2/22/2019

Last Amended: 5/6/2019

**Status:** 7/12/2019-Failed Deadline pursuant to Rule 61(a)(11). (Last location was N.R. & W. on 5/29/2019)(May be acted upon Jan 2020)

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#### Summary:

Current law provides for the establishment and operations of various water districts. This bill would specifically authorize a water district, as defined, to enter into a contract with a Native American tribe to receive water deliveries from an infrastructure project on tribal lands. The bill would repeal its provisions on January 1, 2025.

## Position: Watch

Subject: Municipal Services, Water

**CALAFCO Comments:** This bill amends the water code to allow a Native American tribe to sell/deliver water to a water district (as defined in the water code section 20200). The bill sunsets on January 1, 2025.

#### 3

## AB 134 (Bloom D) Safe Drinking Water Restoration.

Current Text: Amended: 5/20/2019 <u>html</u> pdf Introduced: 12/5/2018 Last Amended: 5/20/2019

**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was E.Q. on 6/12/2019)(May be acted upon Jan 2020)

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#### Summary:

Would require the State Water Resources Control Board to report to the Legislature by July 1, 2025, on its progress in restoring safe drinking water to all California communities and to create an internet website that provides data transparency for all of the board's activities described in this measure. The bill would require the board to develop metrics to measure the efficacy of the fund in ensuring safe and affordable drinking water for all Californians.

Position: Watch Subject: Water

## AB 1053 (Dahle R) Fallen Leaf Lake Community Service District.

Current Text: Amended: 3/25/2019 html pdf

**Introduced:** 2/21/2019

Last Amended: 3/25/2019

**Status:** 7/12/2019-Failed Deadline pursuant to Rule 61(a)(11). (Last location was GOV. & F. on 5/22/2019)(May be acted upon Jan 2020)

| Desk | Policy | Fiscal | Floor | Desk | 2 year | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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# Summary:

Would prohibit, on and after January 1, 2020, the Fallen Leaf Lake Community Services District from providing any services or facilities except fire protection, including medical response and emergency services, and parks and recreation services or facilities.

#### Position: Watch

**CALAFCO Comments:** CALAFCO will watch this bill to determine if the outcome of the State Audit on this district will have an impact on all CSDs.

## AB 1457 (Reyes D) Omnitrans Transit District.

Current Text: Amended: 5/24/2019 html pdf

Introduced: 2/22/2019

# Last Amended: 5/24/2019

**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was GOV. & F. on 6/25/2019)(May be acted upon Jan 2020)

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#### Summary:

Would create the Omnitrans Transit District in the County of San Bernardino. The bill would provide that the jurisdiction of the district would initially include the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa, and specified portions of the unincorporated areas of the County of San Bernardino. The bill would authorize other cities in the County of San Bernardino to subsequently join the district.

#### **Attachments:**

CALAFCO Oppose unless amended letter April 2019

#### Position: Neutral

**CALAFCO Comments:** This is a special act district formation. The bill takes what is currently a JPA and transforms it into a special district. CALAFCO has been working with the author and sponsor on amendments and the May 24 version addresses the vast majority of concerns. CALAFCO continues to work with the author and sponsor on minor technical amendments.

## <u>SB 654</u> (Moorlach R) Local government: planning.

Current Text: Introduced: 2/22/2019 html pdf

Introduced: 2/22/2019

Status: 3/14/2019-Referred to Com. on RLS.

| Desk | Policy    | Fiscal | Floor | Desk | Policy    | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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#### Summary:

Current law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, makes certain findings and declarations relating to local government organizations, including, among other things, the encouragement of orderly growth and development, and the logical formation and modification of the boundaries of local agencies, as specified. This bill would make nonsubstantive changes to these findings and declarations.

#### Position: Watch

**CALAFCO Comments:** This is a spot bill. The author indicates he has no plans to use this for LAFCo law.

Total Measures: 13 Total Tracking Forms: 13

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