**A** **BILL**

TO AMEND SECTION 23‑9‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSFER OF THE DIVISION OF STATE FIRE MARSHAL TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND THE STATE FIRE MARSHAL’S DUTIES AND RESPONSIBILITIES, SO AS TO DELETE CERTAIN OBSOLETE LANGUAGE, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THE DIVISION OF FIRE AND LIFE SAFETY PROGRAM AREAS; TO AMEND SECTION 23‑9‑20, RELATING TO THE DUTIES OF THE STATE FIRE MARSHAL, SO AS TO REVISE HIS DUTIES AND RESPONSIBILITIES; TO AMEND SECTION 23‑9‑25, RELATING TO THE VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT PROGRAM, SO AS TO REVISE GRANT APPLICATION AND FUNDING PROCEDURES; TO AMEND SECTION 23‑9‑30, RELATING TO RESIDENT FIRE MARSHALS, SO AS TO REVISE THEIR DUTIES AND WHO MAY EXERCISE THESE DUTIES, AND PROVIDE THAT THE STATE FIRE MARSHAL MAY PROMULGATE REGULATIONS REGARDING A FIRE MARSHAL’S TRAINING AND CERTIFICATION; TO AMEND SECTION 23‑9‑45, RELATING TO THE ISSUANCE OF A CLASS D FIRE EQUIPMENT DEALER LICENSE OR A FIRE EQUIPMENT PERMIT, SO AS TO PROVIDE FOR THE ISSUANCE OF ADDITIONAL CLASSES OF LICENSES AND QUALIFICATIONS TO OBTAIN THESE LICENSES; TO AMEND SECTION 23‑9‑50, RELATING TO THE STATE FIRE MARSHAL’S AUTHORITY TO INSPECT CERTAIN BUILDINGS AND PREMISES, SO AS TO REVISE THE CIRCUMSTANCES UPON WHICH HE MAY ENTER A BUILDING OR PREMISE; TO AMEND THE TITLE OF CHAPTER 10, TITLE 23, RELATING TO THE “SOUTH CAROLINA FIRE ACADEMY” SO AS TO REVISE THE TITLE TO READ “SOUTH CAROLINA STATE FIRE ACADEMY”; TO AMEND SECTION 23‑10‑10, RELATING TO THE OPERATION OF THE SOUTH CAROLINA FIRE ACADEMY, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23‑49‑120, RELATING TO THE SOUTH CAROLINA FORESTRY COMMISSION ACCEPTANCE OF DONATIONS OF FIRE EQUIPMENT, SO AS TO PROVIDE THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, DIVISION OF FIRE AND LIFE SAFETY ALSO MAY ACCEPT DONATIONS OF FIRE EQUIPMENT PURSUANT TO THIS PROVISION; TO AMEND SECTION 40‑80‑30, RELATING TO A FIREFIGHTER REGISTERING WITH THE STATE FIRE MARSHAL SO AS TO REVISES THE COST AND PROCESS OF OBTAINING CERTAIN INDIVIDUAL FIGHTER RECORDS; AND TO REPEAL SECTIONS 23‑9‑35, 23‑9‑40, 23‑9‑60, 23‑9‑110, AND 23‑9‑130 ALL RELATING TO DUTIES OF THE STATE FIRE MARSHAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 23‑9‑10 of the 1976 Code is amended to read:

“Section 23‑9‑10. ~~Effective July 1, 1979, the Division of State Fire Marshal is hereby transferred to the Department of Labor, Licensing and Regulation to operate as a division under the Office of Director. The State Fire Marshal shall have all of the duties and responsibilities formerly exercised by the Chief Insurance Commissioner as State Fire Marshal, ex officio. Notwithstanding another provision of law, after January 20, 2011,~~ The State Fire Marshal shall have a master’s degree from an accredited institution of higher learning and at least four years experience in fire prevention and control or a bachelor’s degree and eight years experience in fire prevention and control. The Governor shall appoint the State Fire Marshal who shall serve as the Deputy Director of the Division of Fire and Life Safety of the Department of Labor, Licensing and Regulation. The Division of Fire and Life Safety, in the alternative, shall be referred to as State Fire and shall consist of the following primary program areas: Office of State Fire Marshal, State Fire Academy and Emergency Response Task Force.”

SECTION 2. Section 23‑9‑20 of the 1976 Code is amended to read:

“Section 23‑9‑20. (A) The State Fire Marshal shall have jurisdiction and authority statewide, on behalf of the State, in matters including, but not limited to, the following functions and activities:

~~(1)~~ ~~supervise enforcement of the laws and regulations of the Liquefied Petroleum Gas Board and the South Carolina Hydrogen Permitting Program; and~~

~~(2)~~ ~~shall employ and supervise personnel necessary to carry out the duties of his office.~~

(1) enforcement of all laws and ordinances of the State with reference to the following:

(a) the prevention of fires;

(b) the storage, sale, and use of combustibles and explosives;

(c) the installation and maintenance of fire alarm systems and fire extinguishing systems and equipment;

(d) the means of egress from all buildings, except for one‑ and two‑family dwellings, unless otherwise required or permitted through law or regulation;

(e) investigation of the cause, origin, and circumstances of fire;

(f) requiring conformance with the fire prevention and protection codes and standards based upon nationally recognized codes and standards as may be prescribed by law or regulation for the prevention of fires and the protection of life and property;

(g) facilitation of the reporting of fires through the National Fire Incident Reporting System (NFIRS);

(h) collection of information concerning the causes, prevention and reduction of damage from fire and other forms of community loss. The Office of the State Fire Marshal, from time to time, may disseminate this information in an appropriate manner as needed to aid in public protection or training of firefighters; and

(i) other fire‑related activities not inconsistent with the mission of State Fire or otherwise proscribed by law.

(2) enforcement of the laws and regulations of the Liquefied Petroleum Gas Board and the South Carolina Hydrogen Permitting Program;

(3) employment and supervision of personnel necessary to carry out the duties of his office;

(4) implementation of licensing, permitting and certification programs based upon nationally recognized codes and standards, and promulgation of regulations for:

(a) explosives;

(b) pyrotechnic displays and shooters, not inconsistent with the powers reserved for the State Board of Pyrotechnic Safety;

(c) fire protection systems and all classes of equipment; and

(d) persons performing fire inspections under the authority of Section 23‑9‑30;

(5) promulgation of fire prevention and protection regulations based upon nationally recognized codes and standards for the protection of life and property of the residents of the State from fire; and

(6) administrative and operational responsibilities for all program areas of State Fire, including the Office of the State Fire Marshal, the State Fire Academy, and the Emergency Response Task Force.

(B) The Office of the State Fire Marshal may issue an administrative citation for any violation of this chapter and fire code. Service of the citation may be in person or by certified mail.

(C) Separate citations may be issued for each violation. However, no more than one thousand dollars in administrative penalties may be assessed for each violation. For a first offense, a written order specifying the code violations that need to be corrected and specifying a time frame for the correction must be issued. The time frame to complete the corrections is thirty days unless a finding is made that the violation impacts the health, safety, and welfare of the public and an imminent threat of harm exists if the violation is not immediately abated. If the violations are not corrected within the time allotted, an administrative penalty may be assessed.

(D) An entity or individual assessed an administrative penalty may appeal the penalty to the State Fire Marshal, or his designee, within ten days of receipt of the citation. If no appeal is filed, the citation is deemed a final order and the penalties must be paid within thirty days of the receipt of the citation. The State Fire Marshal may enforce any order by filing a civil action through the administrative law court, in the name of the State, for injunctive relief against a person who violates this article, a regulation promulgated under this article, or a final order.

(E) All fines collected under this section must be remitted by the Office of the State Fire Marshal and deposited in a special fund established for State Fire to defray the administrative costs associated with this article.

(F) Nothing in this section prohibits the State Fire Marshal from exercising the statutory authority outlined in Section 23‑9‑70.”

SECTION 3. Section 23‑9‑25 of the 1976 Code is amended to read:

“Section 23‑9‑25. (A) It is the purpose of this section to create the “Volunteer Strategic Assistance and Fire Equipment Program” (V‑SAFE).

(B) This section is contingent upon the General Assembly appropriating funds for the offering of grants of not more than thirty thousand dollars to eligible volunteer and combination fire departments for the purpose of protecting local communities and regional response areas from incidents of fire, hazardous materials, terrorism, and to provide for the safety of volunteer firefighters.

(C)(1) As contained in this section:

(a) ‘chartered fire department’ means a public or governmental sponsored organization providing fire suppression activities with a minimum of a Class 9 rating from the Insurance Services Office;

(b) ‘chartered volunteer fire department’ means a fire department whose personnel serve for no compensation or are paid on a per‑call basis; and

(c) ‘chartered combination fire department’ means a fire department with both members who are paid and members who serve as volunteer firefighters.

(2) Chartered volunteer fire departments and chartered combination fire departments with a staffing level that is at least fifty percent volunteer are eligible to receive grants pursuant to this section. A chartered fire department that receives a grant must comply with the firefighter registration provisions of Act 60 of 2001 and sign the statewide mutual aid agreement with the South Carolina Emergency Management Division.

(D) The amount of the grants awarded shall not exceed thirty thousand dollars per year for each eligible chartered fire department, with no matching or in‑kind money required. A chartered fire department may be awarded only one grant in a three‑year period.

(E) The grant money received by a chartered fire department must be used for the following purposes:

(1) fire suppression equipment;

(2) self‑contained breathing apparatus;

(3) portable air refilling systems;

(4) hazardous materials spill leak detection, repair, and recovery equipment;

(5) protective clothing and equipment;

(6) new and used fire apparatus;

(7) incident command vehicles;

(8) special operations vehicles;

(9) training;

(10) rescue equipment;

(11) medical equipment;

(12) decontamination equipment; and

(13) safety equipment.

(F)(1) The State Fire Marshal shall administer the grants in conjunction with a peer‑review panel.

(2) The peer‑review panel shall consist of nine voting members who shall serve without compensation. Seven members must be fire chiefs from each of the seven regions of the State as defined by the State Fire Marshal. The Chairman of the House Ways and Means Committee shall appoint fire chiefs from Regions 1, 2, and 7. The Chairman of the Senate Finance Committee shall appoint fire chiefs from Regions 3, 4, and 6. The Governor shall appoint one fire chief from Region 5 and one fire chief from the State at large. The State Fire Marshal also shall serve as a member. The President of the South Carolina State Firefighters’ Association shall serve as a nonvoting member and chairman of the committee. The peer‑review panel shall have the authority to establish funding priorities, by consensus, for each grant cycle, based on their assessment of the greatest needs of the South Carolina Fire Service and within the purposes established in this Section. Funding priorities shall be communicated through an annual Notice of Funding Opportunity, which shall accompany the announcement of the grant application period.

(3) An applicant for grant money must submit justification for their project that provides details regarding the project and the project’s budget, the benefits to be derived from the project, the applicant’s financial need, and how the project would affect the applicant’s daily operations in protecting lives and property within their community. Each application must be judged on its own merit. The panelists must consider all expenses budgeted, including administrative or indirect costs, as part of the cost‑benefit review. An applicant may demonstrate cost‑benefit by describing, as applicable, how the grant award will:

(a) enhance a regional approach that is consistent with current capabilities and requests of neighboring organizations or otherwise benefits other organizations in the region;

(b) implement interoperable communications capabilities with other local, state, and federal first responders and other organizations;

(c) allow first responder organizations to respond to all hazards, including incidents involving seismic, atmospheric, or technological events, or chemical, biological, radiological, nuclear, or explosive incidents, as well as fire prevention and suppression.

Applications that best address the grant funding priorities shall score higher than applications that are inconsistent with the priorities. During the panel review process, panelists shall provide a subjective but qualitative judgment on the merit of each request.

Panelists shall evaluate and score the proposed project’s clarity, including the project’s budget detail, the organization’s financial need, the benefits that would result from an award relative to the cost, and the extent to which the grant would enhance daily operations or how the grant will positively impact an organization’s ability to protect life and property. Each element shall be equally important for purposes of the panelists’ scores. Panelists must review each application in its entirety and rate the application according to the evaluation criteria.

Applications shall be evaluated by the panelists relative to the critical infrastructure within the applicant’s area of first‑due response. Critical infrastructure includes any system or asset that, if attacked or impacted by a hazardous event, would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes public water or power systems, major business centers, chemical facilities, nuclear power plants, major rail and highway bridges, petroleum and natural gas transmission pipelines or storage facilities, telecommunications facilities, or facilities that support large public gatherings such as sporting events or concerts. Panelists shall assess the infrastructure and the hazards confronting the community to determine the benefits to be realized from a grant to the applicant.

Applicants that falsify their application, or misrepresent their organization in any material manner, shall have their applications deemed ineligible and referred to the Attorney General for further action, as the Attorney General deems appropriate.

(4) The project period for any award grant shall be twelve months from the date of the award. Any equipment purchased with the grant must meet all mandatory regulatory requirements, as well as, all state, national, and Department of Homeland Security adopted standards.

Award recipients must agree to:

(a) perform, within the designated period of performance, all approved tasks as outlined in the application;

(b) retain grant files and supporting documentation for three years after the conclusion and close out of the grant or any audit subsequent to close out;

(c) ensure all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. In doing so, the recipient must follow its established procurement law when purchasing vehicles, equipment, and services with the grant. If possible, the recipient must obtain at least two quotes or bids for the items being procured and document the process used in the grant files. Sole‑source purchasing is not an acceptable procurement method except in circumstances allowed by law;

(d) submit a performance report to the peer‑review panel six months after the grant is awarded. If a grant’s period of performance is extended for any reason, the recipient must submit performance reports every six months until the grant is closed out. At grant closeout, the recipient must report how the grant funding was used and the benefits realized from the award in a detailed final report. An accounting of the funds also must be included; and

(e) make grant files, books, and records available, if requested by any person, for inspection to ensure compliance with any requirement of the grant program.

(5) A recipient that completes the approved scope of work prior to the end of the performance period, and still has grant funds available, may:

(a) use the greater of one percent of their award amount or three hundred dollars to continue or expand, the activities for which they received the award without submitting an application to amend their grant request;

(b) use excess funds to create or expand, a fire or injury prevention program. Excess funds above the amounts discussed in subitem (a) must be used for fire or injury prevention activities or returned to the program. In order to use excess funds for fire or injury prevention activities, a recipient must submit an amendment to its grant. The amendment request must explain fire or injury prevention efforts currently underway within the organization, where the use of excess funds would fit within the existing efforts, the target audience for the fire or injury prevention project and how this audience was identified, and how the effectiveness of the requested fire or injury prevention project will be evaluated;

(c) submit an application to the peer‑review panel to amend their grant request to redirect remaining funds to another eligible project;

(d) use a combination of subitems (a) and (b); or

~~(d)~~(e) return excess funds to the program. To return the excess funds, a recipient must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of grant obligations. The recipient also must indicate that it understands that the funds will be unavailable for future expenses.

(6) The State Fire Marshal shall:

(a) develop a grant application package utilizing the established guidelines;

(b) establish and market a written and electronic version of the grant application package;

(c) provide an annual report of all grant awards and corresponding chartered fire department purchases to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor;

(d) provide all administrative support to the peer‑review panel; and

(e) provide a grants web page for electronic applications.

(G) Two percent of these funds may be awarded to the South Carolina State Firefighters’ Association annually for the express purpose of establishing and maintaining a recruitment and retention program for volunteer firefighters. The association must apply for the grant to the peer‑review panel.

(H) Three percent of these funds shall be retained by the State Fire Marshal for the express purpose of funding costs associated with the administration of the program.”

SECTION 4. Section 23‑9‑30 of the 1976 Code is amended to read:

“Section 23‑9‑30. (a) The chief of any organized fire department or county fire marshal is ex officio resident fire marshal; however, this chapter does not repeal, amend, or otherwise affect Chapter 25 ~~of~~, Title 5.

(b) All ~~powers and~~ duties of investigation, inspection, and enforcement vested in the State Fire Marshal may be exercised or discharged ~~by any deputy state fire marshal, county fire marshal, or resident fire marshal~~ within the area of his service by any deputy state fire marshal, ex officio resident fire marshal, or any state or local governmental employee certified by the State Fire Marshal ~~whose duties include inspection and enforcement of state or local fire safety codes and standards, acting under the authority of the State Fire Marshal~~.

(c) The State Fire Marshal shall have the authority to promulgate regulations regarding the training, certification, and recertification of fire marshals, and disciplinary procedures, up to and including revocation of certification for cause.”

SECTION 5. Section 23‑9‑45 of the 1976 Code is amended to read:

“Section 23‑9‑45. (A) An applicant for a Class ~~D~~ A,B,C,D, or E fire equipment dealer license or ~~a Class D fire equipment~~ permit, or both, shall provide proof of a current manufacturer’s training certificate for each type of preengineered fire extinguishing system and meet additional fire and life safety requirements as set forth in regulation. However, if the applicant can provide proof of a current manufacturer’s training certificate for at least one type of preengineered fire extinguishing system, the applicant may submit a sworn affidavit for each additional type of preengineered fire extinguishing system for which a license or permit, or both, is requested.

(B) The affidavit shall attest to the applicant’s ability to obtain the proper manufacturer’s installation and maintenance manuals and provide testament that all installations and maintenance shall be performed in compliance with the manufacturer’s installation and maintenance manuals~~, with the exception of the manufacturer’s training certificate, and in compliance with National Fire Protection Association standards 10, 11, 12, 13, 17, 17A, 96, 211, and 2001, as they exist as of January 1, 2006, including the use of replacement parts listed in conformity with National Fire Protection Association standards~~ and codes adopted by the South Carolina Building Codes Council. Any violation of the affidavit is grounds for the revocation of the ~~Class D~~ fire equipment dealer license or the ~~Class D~~ fire equipment permit, or both.

(C) The ~~Division of~~ State Fire Marshal is authorized to charge a license fee for all ~~class~~ classes of fire equipment licenses issued by the ~~Division of~~ State Fire Marshal and a permit fee for all ~~class~~ classes of fire equipment permits issued by the ~~Division of~~ State Fire Marshal. Fees may be set by regulation not more than once each two years and must be based upon the costs of administering the provisions of this chapter and must give due regard to the time spent by division personnel in performing duties. ~~The initial fees established by the State Fire Marshal may not exceed one hundred dollars for licenses and twenty‑five dollars for permits.~~ Qualifications and requirements of licensees and permittees shall be contained in regulations.”

SECTION 6. Section 23‑9‑50 of the 1976 Code is amended to read:

“Section 23‑9‑50. (a) The State Fire Marshal shall have authority at all times of the day or night, in the performance of duties imposed by this chapter, to enter upon and examine any building or premises where any fire or explosion has occurred and other adjoining buildings or premises ~~adjoining~~. Provided, that the State Fire Marshal may enter a private dwelling or premise only with the permission of the owner or occupant, ~~unless~~ or if:

(i) there is probable cause to believe that a violation of the provisions respecting fire laws exists; ~~, that there exists imminent danger to the occupants thereof or arson.~~

(ii) there is probable cause to believe there is imminent danger to the occupants of the dwelling or premise; or

(iii) a fatality or serious injury has occurred as a result of fire, explosion, or arson.

(b) The State Fire Marshal shall have authority at any reasonable hour to enter into any public building or premises or any building or premises used for public purposes to inspect for fire hazards.

(c) Nothing in this section shall restrict the authority of the State Fire Marshal from investigating any premises which has been damaged by a fire of suspicious cause within a reasonable period of time after the occurrence of such fire.”

SECTION 7. The title of Chapter 10, Title 23 of the 1976 Code is amended to read:

“CHAPTER 10

South Carolina State Fire Academy”

SECTION 8. Section 23‑10‑10 of the 1976 Code is amended to read:

“Section 23‑10‑10. The State Fire Marshal has the sole responsibility for the operation of the ~~South Carolina~~ State Fire Academy (Academy). The Academy is operated for the express purpose of upgrading the state’s paid, volunteer, and industrial fire service personnel. All buildings, facilities, equipment, property, and instructional materials which are now or become a part of the Academy are assigned to the Academy and may not be integrated with any other local or state agency, association, department, or technical education center, without the consent of the Director of the Department of Labor, Licensing and Regulation or his designee.

There is created the ~~South Carolina~~ State Fire Academy Advisory Committee which shall advise and assist the State Fire Marshal in developing a comprehensive training program based upon the needs of the fire service in this State. Membership on the committee includes:

(A) the Chairman and appointed members of the ~~Fire School~~ Training and Education Committee of the South Carolina State ~~Firemen’s~~ Firefighters’ Association. The Chairman of the ~~Fire School~~ Training and Education Committee also shall serve as the Chairman of the ~~South Carolina~~ State Fire Academy Advisory Committee;

(B) one member from the South Carolina State Association of Fire ~~Chief’s~~ Chiefs ~~Association~~ appointed by the president of the association;

(C) one member from the South Carolina Fire ~~Inspectors~~ Marshal Association appointed by the president of the association;

(D) one member from the South Carolina Society of Fire Service Instructors ~~Association~~ appointed by the president of the society;

(E) one member from the Professional Firefighters Association appointed by the president of the association;

(F) one member from the South Carolina Chapter of International Association of Arson Investigators appointed by the president of the chapter;

(G) the ~~Director~~ Superintendent of the ~~South Carolina~~ State Fire Academy who shall serve as secretary without voting privileges. Membership from the ~~South Carolina~~ State Fire Academy is limited to the ~~director~~ superintendent only;

(H) one industrial fire protection representative appointed by the president of the South Carolina Chapter of the American Society of Safety Engineers;

(I) the Executive Director of the South Carolina State ~~Firemen’s~~ Firefighters’ Association who shall serve as a member ex officio without voting privileges;

(J) the State Fire Marshal as a member ex officio without voting privileges;

(K) one member from higher education having experience and training in curriculum development appointed by the Director of the Department of Labor, Licensing and Regulation; and

(L) one member from the ~~South Carolina Fire and~~ Life Safety Education Section of the South Carolina State Firefighters’ Association appointed by the president of the section.”

SECTION 9. Section 23‑49‑120(B) of the 1976 Code is amended to read:

“(B) The South Carolina Forestry Commission and the Department of Labor, Licensing and Regulation, Division of Fire and Life Safety may accept donations of new or used fire protection, control, and rescue equipment from individuals or organizations. Donated equipment accepted by the commission or department may be retained for use by the commission or department or distributed to county, municipal, or other fire departments in this State or to other state or local emergency service or rescue organizations. A fire department or other organization accepting donated breathing apparatus from the commission or department shall cause the breathing apparatus to be recertified according to the manufacturer’s specifications by the manufacturer or a technician certified by the manufacturer before it is placed into service or used by the fire department or other organization.”

SECTION 10. Section 40‑80‑30 of the 1976 Code is amended to read:

“Section 40‑80‑30. (A) No later than sixty days after the start of his employment date as a paid or volunteer firefighter, each firefighter must be registered with the Office of the State Fire Marshal by his fire chief or other employer. The criminal background check required by Section 40‑80‑20 must be conducted before registration.

(B) The Office of the State Fire Marshal must maintain a file on each registered firefighter in this State, that includes all information required to be kept by this chapter, and must assign a firefighter identification number to each registered firefighter which corresponds with the firefighter’s social security number.

(C) Upon request the information in the file of an individual firefighter may be released in its entirety to a potential employer as defined in this chapter and may be used as a basis for employment. The requesting department or employer must maintain this information in a confidential manner.

(D) Any registered firefighter may at any time request and obtain a copy of his or her file. An unofficial version of a firefighter’s file is available at no cost by way of secured web addresses. The fee for ~~a~~ an official copy of a firefighter’s ~~file~~ transcript is ~~five~~ three dollars payable to the Office of the State Fire Marshal. The fee for a reprinted certificate is five dollars payable to the Office of the State Fire Marshal.”

SECTION 11. Sections 23‑9‑35, 23‑9‑40, 23‑9‑60, 23‑9‑110, and 23‑9‑130 of the 1976 Code are repealed.

SECTION 12. This act takes effect upon approval by the Governor.

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