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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO ELECTIONS-PURCHASE OF VOTING EQUIPMENT AND SERVICES

Introduced By: Representatives Fogarty, Ackerman, Maldonado, Carson, and Hearn

Date Introduced: June 11, 2015

Referred To: House Judiciary

(Secretary of State)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-6-1 of the General Laws in Chapter 17-6 entitled "Secretary of
2 State" is hereby amended to read as follows:

3 **17-6-1. General powers and duties.** -- (a) The secretary of state shall have those
4 functions, powers, and duties relating to elections that may be provided by this title or any other
5 law not inconsistent with this chapter. The secretary of state shall maintain a central roster of all
6 elected and appointed officers of the state, including for each officer the nature of the officer's
7 tenure and the date of expiration of the officer's term of office. The secretary of state shall
8 maintain a central register of all persons registered to vote in the several cities and towns and
9 shall add, amend, delete, and cancel any names appearing on the register as certified to the
10 secretary by the several local boards and by the state board.

11 (b) The secretary of state may compile and publish a complete edition of the election
12 law, which the secretary shall make available to all election officials and candidates upon request,
13 and without charge. The secretary of state shall receive and file certificates of election results as
14 provided by this title.

15 (c) Notwithstanding any provisions of the general laws to the contrary, the office of the
16 secretary of state shall have the exclusive authority to procure voting systems and voting system
17 related services on behalf of the state.

18 SECTION 2. Sections 17-19-1 and 17-19-3 of the General Laws in Chapter 17-19
19 entitled "Conduct of Election and Voting Equipment, and Supplies" are hereby amended to read

1 as follows:

2 **17-19-1. Definitions.** -- As used in this chapter, except as otherwise required by the
3 context:

4 (1) "Computer ballot" means the paper ballot prepared by the office of the secretary of
5 state for use in conjunction with the optical scan precinct count system; or the voting equipment
6 precinct count system then in place and procured in accordance with this chapter;

7 (2) "Voting equipment" means an optical scan precinct count voting system or the voting
8 equipment precinct count system then in place and procured in accordance with this chapter,
9 related memory device, all related hardware and software, and voting booths;

10 (3) "Warden" includes moderator; and vice versa;

11 (4) "Candidate" means any individual who has qualified under law to have his or her
12 name appear on the ballot for nomination for election or election to office;

13 (5) "Write-in candidate" means any individual receiving votes or seeking election to
14 office by virtue of having irregular ballots cast for him or her pursuant to § 17-19-31;

15 (6) "Public office" means any state, municipal, school or district office or other position
16 that is filled by popular election, except political party offices which shall mean any state, city,
17 town, ward or representative or senatorial district committee office of a political party or delegate
18 to a political party convention, or any similar office; and

19 (7) A "Vote" shall be any mark made with the appropriate marking device within the
20 optech ballot voting area between the head and tail of the arrow on the computer ballot next to the
21 party, candidate, write-in candidate or question, as is applicable, for whom the voter casts his or
22 her ballot, except as provided in § 17-20-24.

23 **17-19-3. Voting equipment and services -- Specifications. [Effective January 1,**

24 **2015.]** -- (a) The office of secretary of state ~~and the state board of elections~~ shall develop from
25 time to time, and in coordination with the general assembly for the purpose of funding
26 procurement, submit specifications to the department of administration, which the department of
27 ~~administration shall consult in developing a request for a proposal, as set forth in § 17-19-2.1.~~
28 ~~These specifications must be submitted to the department of administration within thirty (30)~~
29 ~~days of the passage of this bill. These~~ specifications; and ~~the request~~ requests for ~~a proposal~~
30 proposals for the options of purchasing, leasing to own, or renting ~~an optical scan~~ precinct count
31 voting ~~system;~~ systems that utilize technologies, methods and equipment considered reasonable
32 best practices for the state and in compliance with all laws, and for a full-service contract for ~~an~~
33 ~~optical scan precinct count~~ such voting ~~system~~ systems, any of which shall propose an optical
34 ~~scan precinct count system that~~ shall be constructed and shall operate in a manner that meets the

1 following minimum requirements:

2 (1) It shall enable the voter to:

3 (i) Mark his or her ballot and cast his or her vote in secrecy;

4 (ii) Vote for all candidates of political parties or organizations, and for, or against,
5 questions as submitted;

6 (iii) Vote for as many persons for an office as the voter is lawfully entitled to vote for,
7 but no more; and

8 (iv) Vote on any question the voter may have the right to vote on;

9 (2) It shall prevent the voter from voting for the same person more than once for the
10 same office;

11 (3) The voting equipment shall allow the voter to cast one vote, thereby allowing the
12 voter to vote for all the presidential electors of a party by ~~marking one mark on the ballot, and a~~
13 ~~ballot containing only the words "presidential electors for," preceded by the name of that party~~
14 ~~and followed by the names of the candidates of that party for the offices of president and vice-~~
15 ~~president~~ a clear and unambiguous means; provided, that means shall be furnished by which the
16 voter can cast a vote in part for the candidates for presidential electors of one party, and in part
17 for those of one or more other parties, or in part or in whole, for persons not nominated by any
18 party;

19 (4) The ~~optical scan~~ precinct counting system shall meet the following specifications:

20 (i) Vote counting, including absentee ballots, shall be performed through the use of
21 automated electronic equipment;

22 (ii) All vote counting shall be performed on equipment supplied as part of the bid. The
23 system shall not require the use of non-supplied equipment to count ballots or tabulate results;

24 (iii) There shall be privacy enclosures in which a voter may mark his or her ballot or
25 otherwise cast his or her vote in secret;

26 (iv) There shall be a device located in each polling place that can record the vote count
27 and tally the vote count in that polling place and that can produce a printed tally of all races
28 contained on said ballot in human, readable form. The device shall automatically print a "zero
29 report" at the beginning of the day when the device is activated. The device that receives ballots
30 for counting shall have an external counter indicating the number of ballots received. The actual
31 vote tally shall be capable of being performed only by election officials and shall not be visible
32 during the actual voting process. Each recording device shall ~~rest on a ballot box that must have~~
33 ~~compartments with doors that lock for~~ assure the security of voted ballots and ease of access;

34 (v) As part of the voting process, there shall be created a physical ballot showing the

1 votes cast by an individual voter that is capable of being hand counted so that electronic-
2 recorded-device totals can be checked for accuracy. ~~The device must be able to accept a one (1)-
3 two (2) or three (3) column ballot that can be printed on one or both sides;~~

4 (vi) There shall be a device at each polling place to receive the physical audit trail of
5 ballots cast and that shall securely store the ballots and have the capability of restricting access to
6 the ballots only to authorize officials;

7 (vii) In the event of loss of electrical power, the polling place vote count shall be stored
8 on an ongoing basis in media that will retain the count of the votes cast to that point in time for a
9 period of no less than five (5) years;

10 (viii) The polling place vote counts shall be stored on a stable media that may be easily
11 transported and that may be accessed and counted by an electronic device so that state, city,
12 and/or town vote totals can be electronically calculated by combining individual polling place
13 totals. It shall not be necessary to enter individual polling place totals by, and into, a central
14 computer or device for the purpose of producing the state, city, and/or town totals, but rather the
15 electronic media on which the polling place totals are stored shall be directly readable and
16 accessible by a regional or central device;

17 (ix) There shall be a device that has the capability to electronically read the storage
18 device upon which the individual polling place totals are stored and that shall produce a
19 combined total for all races, which total can be printed in easily readable and legible form in a
20 format prescribed by the state board of elections;

21 (x) The system provided shall allow the secretary of state to have the capability to design
22 the ballot format;

23 (xi) The system shall provide a capability for the state, without the use of outside
24 services, to set up and prepare the counting devices to total an election; and

25 (xii) The system must be capable of receiving voted ballots without counting when
26 without power and must provide for securely storing uncounted ballots;

27 (5) The following minimum equipment shall be required for the state:

28 (i) There shall be ~~six hundred (600)~~ a minimum number of units to permit counting to be
29 conducted in each polling place within the state with a reserve of equipment on hand;

30 (ii) There shall be a sufficient ~~voting booths to allow one~~ number of voting booths for
31 ~~approximately every one hundred seventy-five (175)~~ each precinct to accommodate voters as
32 determined in this title;

33 (iii) The number of polling place units and voting booths must be sufficient to permit the
34 election to run smoothly without excessive waiting of voters;

1 (iv) If there is an increase in the number of polling places statewide during the term of
2 the contract, the vendor will supply additional polling place units and voting booths at a cost
3 proportional to the cost of the initial units pro rated for the balance of the agreement years;

4 (v) (A) There shall be high-speed, absentee vote tabulating equipment. These tabulators,
5 as a whole, must be capable of counting ~~a minimum of four hundred (400) absentee ballots per~~
6 ~~minute~~ absentee ballots at a reasonable best practices rate. The tabulators shall utilize the same
7 ballots used in the polling place;

8 (B) This system shall have the following capabilities in connection with the counting of
9 ballots and producing results:

10 (I) This system shall be able to read the media from the polling place units on which
11 polling place results are stored and shall be able to compile polling place results producing a
12 ballot total for each race; and

13 (II) This system shall be capable of producing and printing out ballot totals on a polling-
14 place-by-polling-place basis for each race, and shall be capable of producing a final total and
15 subtotals of all races from all races and polling places in the state. All totals must be able to be
16 produced at any time, based upon the number of polling places counted up to that point in time,
17 and these printout results shall state the number of precincts counted and the percentage of
18 precincts reporting;

19 (vi) There shall be all equipment necessary to program the system and erase the memory
20 devices;

21 (vii) ~~Regional~~ Reasonable best practices tabulating equipment shall be located in each of
22 the thirty-nine (39) local boards of canvassers and the central tabulation equipment shall be
23 located at the state board of elections. The state board of elections, in conjunction with the service
24 contract vendor, no less than thirty (30) days prior to an election, shall ~~determine which regional~~
25 ~~and/or central~~ test the tabulation ~~sites are~~ system to be utilized for the election and determine
26 whether regional and/or central tabulation is adequate, and if regional tabulation is required, so
27 implement it. The tabulation system shall have the following capabilities in connection with the
28 counting of ballots and producing results:

29 (A) This system shall be able to read the media from the polling place units on which
30 polling place results are stored and shall be able to compile polling place results producing a
31 ballot total for each race;

32 (B) This system shall be capable of producing and printing out ballot totals on a polling-
33 place-by-polling-place basis for each race and shall be capable of producing a final total and
34 subtotal of all races from all races and polling places in the state;

1 (C) All totals must be able to be produced at any time based upon the number of polling
2 places counted up to that point in time, and the printout results shall state the number of precincts
3 counted and the percentage of precincts reporting; and

4 (D) This system shall be capable of transferring information gathered ~~at each regional~~
5 ~~site to the central site and shall also be capable of transferring information gathered at the central~~
6 ~~site to a specific, regional site~~ from the precincts and, if regional and/or central tabulation sites are
7 utilized, the system shall be capable of transferring information at any regional or central sites
8 utilized by the thirty-nine (39) local boards of canvassers;

9 (6) All necessary programming and accumulation software shall be provided to run the
10 election system in accordance with the required specifications as well as all necessary and
11 required modules. Any software updates during the term of the agreement shall not be charged to
12 the state;

13 (7) The vendor of the ~~optical scan~~ precinct count system shall provide written proof of
14 compliance with ~~Federal Election Commission~~ federal standards then in place and administered
15 by the designated federal agency or organization from an independent testing company and this
16 written proof must be on file with the office of the secretary of state and the state board of
17 elections;

18 (8) The vendor shall also provide the following information to be included in the
19 vendor's bid proposal:

20 (i) (A) An audited financial statement covering the previous five (5) years, and if the
21 vendor is not the manufacturer of the equipment, both the agent and manufacturer must submit an
22 audited financial statement covering the previous five (5) years with the bid;

23 (B) In the event that either the vendor, agent, or manufacturer has been in existence for
24 less than five (5) years, that entity must submit an audited financial statement for each and every
25 full year that they have been in existence;

26 (ii) Proof of experience in the field of elections including, but not limited to, years of
27 experience in this field and experience with a jurisdiction having the same needs as the state of
28 Rhode Island; and

29 (iii) Names and addresses of the support organizations that will provide support of all
30 equipment.

31 (b) The full service plan shall include the following services, but, at the discretion of the
32 ~~department of administration~~ office of the secretary of state, shall not be limited to the following
33 services:

34 (1) Computer coding and layout of all ballots to be used in each election under contract,

1 ~~in conjunction with, the office of the secretary of state,~~ including the printing of the ballot and the
2 preparation of the ballot reading device to ensure that the ballots are compatible with the ballot
3 reading device. Subsequent thereto, the state board of elections shall be responsible for the
4 following:

- 5 (2) Testing of each unit for logic and accuracy;
- 6 (3) Testing of each programmed memory ~~cartridge~~ device;
- 7 (4) Set up of each ~~optical-scan~~ precinct count unit at each polling place;
- 8 (5) Maintenance of all ~~optical~~ precinct count units;
- 9 (6) Training of poll workers;
- 10 (7) On-site election night staff at the central tabulation location and any other locations
11 as may be determined by the state board to receive and transmit election results;
- 12 (8) On-site election day field technicians to respond to repair calls;
- 13 (9) Providing the following equipment and supplies:
 - 14 (i) Secrecy covers for voted ballots;
 - 15 (ii) Demonstration ballots;
 - 16 (iii) Precision-cut shell program ballots ready for printing with timing marks;
 - 17 (iv) Marking pens;
 - 18 (v) Ballot transfer cases;
 - 19 (vi) Envelopes for mailing and receiving absentee ballots; and
 - 20 (vii) Printer ribbons, paper tape rolls, and seals.

21 (c) Any bid specifications for ~~an optical-scan~~ a precinct count system and a full-service
22 agreement for ~~an optical-scan~~ a precinct count system that do not conform in all respects to the
23 requirements of subdivisions (a)(1) -- (b)(9)(vii) of this section ~~shall not be submitted to the~~
24 ~~office of the department of administration; provided, that the director of administration may~~
25 ~~waive any one of the requirements with respect to the full service agreement portion of the bid,~~
26 ~~after consultation with the chairperson of the state board of elections and the secretary of state, in~~
27 ~~order to preserve an otherwise acceptable bid~~ may be accepted by the office of the secretary of
28 state; provided that the acceptance of any bid specifications that do not conform with the
29 requirements of subsections (a)(1) through (b)(9)(vii) of this section shall be identified by the
30 office of the secretary of state and memorialized with an explanation as to the reason for
31 accepting bid specification notwithstanding the specific non-conformance of any such bid
32 specifications.

33 (d) ~~Upon expiration of the initial full service agreement as set forth in the provisions of §~~
34 ~~17-19-2.1, the state board~~ The office of the secretary of state shall periodically conduct a review

1 of the election system, provide a report to the general assembly, and shall ~~subsequently assume~~
2 ~~responsibility~~ be responsible for establishing minimum requirements and specifications for the
3 procurement of voting equipment and services.

4 SECTION 3. Section 17-7-5 of the General Laws in Chapter 17-7 entitled "State Board of
5 Elections" is hereby amended to read as follows:

6 **17-7-5. Powers and duties -- Quorum. --** (a) The state board shall have those functions,
7 powers, and duties that are prescribed by this title or otherwise pursuant to law. In the exercise of
8 these functions, powers, and duties, but without limitation to them, the board shall:

9 (1) Exercise general supervision of the administration of the election law by local
10 boards;

11 (2) Furnish all binders, forms, cabinets, and other supplies required for the operation of
12 the system of permanent registration of voters throughout the state, as provided by this title;

13 (3) Require the correction of voting lists by any local board whenever the state board has
14 information or cause to believe that any error exists in the lists, and shall immediately notify the
15 secretary of state of any corrections;

16 ~~(4) Have responsibility for supervising the vendor to the extent that services under the~~
17 ~~jurisdiction of the state board are performed by the vendor as prescribed by § 17-19-3.~~

18 ~~(5)~~(4) Prepare, package, and deliver election supplies to the various cities and towns for
19 each voting district, except for supplies listed in this title for delivery by the office of the
20 secretary of state;

21 ~~(6)~~(5) (i) Appoint, qualify and assign all state inspectors of elections. The state board of
22 elections shall formulate programs of instruction and shall determine the method and manner of
23 instruction which shall be provided to the local boards and to the vendor providing training
24 pursuant to any agreement between the state and the vendor for the training of election officials.
25 The program of instruction shall include familiarization with the election laws and duties of
26 various election officials, together with the exercise of sample situations which may be
27 encountered in the process of voting, geographical boundaries of the voting district to which the
28 official may be assigned, offices and questions which may be on the ballot, and any other
29 information that the board of elections may deem appropriate. The availability of these programs
30 of instruction for local boards shall be pursuant to the procedures, rules and regulations adopted
31 by the board of elections.

32 (ii) The board of elections shall also formulate and provide an informational pamphlet
33 containing detailed instructions regarding the duties of elections officials and the operation of
34 polling places. All informational pamphlets shall be distributed to the local boards who shall, in

1 turn, see to their distribution to all election officials prior to any election;

2 ~~(7)~~(6) Canvass and tabulate all votes cast at each state election; and count, canvass, and
3 tabulate the votes cast by mail voters as provided in this title;

4 ~~(8)~~(7) Select dates for off year and special election primaries, except the dates for any
5 primaries for local elections that require fixing by the local board pursuant to chapter 15 of this
6 title;

7 ~~(9)~~(8) Furnish each elected candidate for all state or national offices a certificate of
8 election;

9 ~~(10)~~(9) Furnish the secretary of state with a certified statement of the number of votes
10 cast in each voting district for all state and national candidates, the votes cast for and against all
11 state questions which appeared on the ballot, and a certificate of election for each national
12 candidate who is elected in this state, and furnish the governor with a certified list of the general
13 officers elected at each general election;

14 ~~(11)~~(10) Hold hearings relating to recounts or other protests of the results or conduct of
15 an election;

16 ~~(12)~~(11) Maintain any books and records of the votes cast, and publish any statements
17 and reports, that it may deem to be in the public interest;

18 ~~(13)~~(12) Arrange and make provisions for the registration of voters pursuant to the
19 National Voter Registration Act (NVRA) of 1993, 42 U.S.C. § 1973gg et seq. The state board
20 shall formulate programs to assist those persons or organizations desiring to register voters and
21 shall provide, pursuant to procedures, rules, and regulations it shall adopt, voter registrations
22 services which may include training sessions, registration materials, manuals and other services
23 for the purpose of registering to vote eligible Rhode Island citizens;

24 ~~(14)~~(13) Annually conduct a voter registration drive at each institution of higher
25 education at the level of junior college or above in the state; and

26 ~~(15)~~(14) Establish and maintain an administrative complaint procedure in accordance
27 with Section 402 of the Help America Vote Act (P.L. 107-252) [42 U.S.C. § 15512].

28 (b) The state board shall also have all of the powers and duties formerly conferred or
29 imposed by existing law upon the division of elections and the election board, and whenever in
30 any other general law, public law, act, or resolution of the general assembly, or any document,
31 record, or proceeding authorized by the general assembly, the phrase "division of elections" or
32 "election board" or any other word or words used in reference to or descriptive of the division,
33 board, or any member or employee of the division or board, or to their respective activities or
34 appointees, or any of them, the word, phrase, or reference shall, unless the context otherwise

1 requires, be deemed to refer to and describe the state board, its members, appointees, and
2 activities, as the context may require.

3 (c) The state board shall have power to make any rules, regulations, and directives that it
4 deems necessary to carry out the objects and purposes of this title not inconsistent with law.

5 (d) The state board shall also have jurisdiction over all election matters on appeal from
6 any local board and over any other matters pertinent and necessary to the proper supervision of
7 the election laws.

8 (e) Four (4) members of the state board shall constitute a quorum.

9 (f) Notwithstanding the provisions of § 42-35-18(b)(22), all rules and regulations
10 implementing and enforcing the provisions of the Help America Vote Act of 2002 (P.L. 107-252)
11 [42 U.S.C. § 15301 et seq.] shall be promulgated in accordance with the rule-making provisions
12 contained in §§ 42-35-1 -- 42-35-8.

13 SECTION 4. Sections 17-19-2 and 17-19-2.1 of the General Laws in Chapter 17-19
14 entitled "Conduct of Election and Voting Equipment, and Supplies" are hereby amended to read
15 as follows:

16 **17-19-2. Voting equipment.** -- Subject to the provisions of this chapter, voting
17 equipment which has been procured by the ~~department of administration~~ office of the secretary of
18 state according to the provisions of this chapter shall be used in all state, city, or town elections,
19 including elections at which amendments to the Constitution of the state are submitted to the
20 electors for approval. Until such voting equipment is procured by the office of the secretary of
21 state, voting equipment previously acquired by the department of administration according to the
22 provisions of this chapter in effect at the time shall continue to be used in all state, city, or town
23 elections, including elections at which amendments to the constitution of the state are submitted
24 to the electors for approval.

25 **17-19-2.1. ~~New voting technology~~ --- ~~Declaration of purpose.~~ --- New voting**
26 **technology.** -- ~~WHEREAS, mechanical lever voting machines have been in use in the state of~~
27 ~~Rhode Island for more than fifty (50) years; and~~

28 ~~WHEREAS, voting machine technology has now advanced to the point where votes can~~
29 ~~be cast and reliably recorded on optical scan precinct count voting systems; and~~

30 ~~WHEREAS, optical scan precinct count voting systems are now in use in various states~~
31 ~~and have resulted in returning accurate and reliable voting results within a shorter period of time~~
32 ~~than is possible through the use of mechanical lever machines; and~~

33 ~~WHEREAS, the general assembly finds that it is in the public interest to convert from~~
34 ~~mechanical lever voting machines to an optical scan precinct count voting system;~~

1 ~~THEREFORE, the general assembly determines that an optical scan precinct count~~
2 ~~voting system as described in § 17-19-3 shall be employed in elections held in the State of Rhode~~
3 ~~Island beginning in 1997.~~

4 ~~The department of administration shall be responsible for the procurement of an optical~~
5 ~~scan precinct count voting system and for the procurement of a full service contract as set forth in~~
6 ~~§ 17-19-3. The specifics in the request for proposal shall be drafted by the department of~~
7 ~~administration in consultation with the office of the secretary of state and the state board of~~
8 ~~elections. The term of each contract shall be determined by the department of administration. The~~
9 ~~procured system shall be revenue neutral in that, over the life of the contract, it may not cause the~~
10 ~~state to incur more expense than would be expended under the mechanical lever system during a~~
11 ~~similar period. The department of administration shall seek bids from vendors for the options of~~
12 ~~purchasing, leasing to own and renting an optical scan precinct count voting system meeting the~~
13 ~~requirements set forth in § 17-19-3, and for the full services of the vendor as set forth in § 17-19-~~

14 3. (a) In the event the office of the secretary of state purchases new voting equipment and services
15 in accordance with §17-19-3, then any reference in this title to optical scan equipment shall be
16 deemed to refer to the voting equipment then purchased by the office of the secretary of state
17 whether such voting equipment utilizes optical scan technology or not; and

18 (b) In the event the office of the secretary of state purchases new voting equipment and
19 services in accordance with § 17-9-3, then any reference in this title to such voting equipment
20 being purchased by the department of administration shall be deemed to refer to the equipment
21 purchased by the office of the secretary of state.

22 SECTION 5. Section 37-2-74 of the General Laws in Chapter 37-2 entitled "State
23 Purchases" is hereby amended to read as follows:

24 ~~**37-2-74. Printing, binding, advertising, and election expenses. -- Printing, binding,**~~
25 ~~**advertising, voting equipment and services, and election expenses. --**~~ All printing, binding,
26 advertising, voting equipment and services, (including those as set forth in § 17-19-3) and
27 election expenses in connection with all primaries and elections, advertising Rhode Island, and all
28 legislative printing, including the printing of the public laws and acts and resolves, shall be
29 purchased by the secretary of state and in respect to those purchases, the department of state shall
30 be exempt from the requirements of this chapter which relate to the function of purchasing.

31 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ELECTIONS-PURCHASE OF VOTING EQUIPMENT AND SERVICES

1 This act would make the secretary of state solely responsible for the purchase and
2 oversight of the purchasing of voting equipment. The act would also allow for the purchase of
3 state of the art voting equipment.

4 This act would take effect upon passage.

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