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Chapter IX - Highways and Roads

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Sincerely,

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Chapter IX - Highways and Roads

Road Law

Private Acts of 1972 Chapter 326

SECTION 1. This Act shall be known and may be cited as "The Henry County Road Law."

SECTION 2. There is hereby created the Henry County Road Commission, hereinafter referred to as "the Commission." The Commission shall be composed of six (6) members, five (5) of which shall be elected from, and residing in, each of the five (5) road districts which shall be established by resolution of the county legislative body, and one (1) member shall be elected from the county at-large. The member serving at-large shall serve as chairman of the Commission.

Commission members shall be elected at the regular August general elections to four (4) year terms, and may succeed themselves without limitation as to the number of terms they may serve. Terms shall begin on the first day of September following their election.

Commission members in office on the date this act becomes effective shall continue to serve until the expiration of the terms to which they were elected. To accomplish the transition from seven (7) commission members to six (6) commission members, commission members shall be elected as follows: At the August 2002 elections, one (1) Commission member shall be elected to a four (4) year term from each of road districts 1 and 3. At the August 2004 elections, one (1) Commission member shall be elected to a four (4) year term from each of road districts 2, 4, and 5, and the at-large Commission member shall be elected to a four (4) year term from the entire county. Thereafter, Commission members shall be elected to four (4) year terms as the terms of each member expires.

As amended by: Private Acts of 2002, Chapter 107

SECTION 3. If a vacancy occurs in the office of County Road Commissioner or Chairman of said board, the Quarterly County Court shall elect some qualified person to serve for until the next General Election.

SECTION 4. At the organizational meeting of the newly elected Road Commission, there shall be elected a Vice-Chairman to preside in the absence of the Chairman. Roberts Rules of Order shall prevail at any and all official meetings of the Road Commission.

SECTION 5. Before entering upon their official duties the members of the County Road Commission shall make and subscribe to an oath to perform their duties faithfully, impartially, and without prejudice for or against any sections of the County, and before entering or taking such office shall execute and file with the County Court Clerk of said County a fidelity bond in a penal sum as required by law. Said bond shall be good and solvent security approved by the County Judge of such County. Said bond and oath of office are to be filed in the office of the County Court Clerk, and recorded on the minutes of said Court.

SECTION 6. No member of the County Road Commission shall be employed by the County Highway Department.

As amended by: Private Acts of 1991, Chapter 42.

SECTION 7. The Commission shall meet once each month at a time and place to be designated at the organizational meeting of such Commission and each member of the Commission shall be entitled to a sum not to exceed that provided for in the budget of Henry County. Meetings other than regular monthly meetings deemed necessary by the Chairman or a majority of the members may be held; provided, however, that no such meeting will be held unless the members of said Commission are notified at least 48 hours prior to the meeting. The above notice requirement may be waived by a majority vote of the Commissioners and the Chairman of said Commission, in the case of an emergency.

SECTION 8. The Commission has jurisdiction of expenditures of all road and bridge funds belonging to the County from whatever source insofar as the expenditure of said funds does not deviate from the budgeted chart of accounts as adopted by the Quarterly County Court for the Annual Operating Budget of the County. Any transfers of budgeted funds by series or subseries must be approved by proper resolution of the Quarterly County Court. It shall be the further duty of said Commission to classify all county roads and submit to the Quarterly County Court for its approval a five (5) year long-range maintenance and improvement plan for the County Road System, which shall be subject to annual review. It shall be the duty of said Commission to submit to the Quarterly County Court at its March term annual plans for execution during the ensuing fiscal year. The preparation and submission of the proposed annual budget for the County Road Department will follow the guidelines established by the Budgeting Act of the County. The Commission shall have general control of all county road and bridges. The acceptance and closing of roads shall be the responsibility of the Quarterly County Court and said

Quarterly County Court shall take action on matters of this nature upon the recommendation of the Henry County Road Board, in accordance with the General State Law. Roads not maintained by the County Road Department for the past 10 years shall not be classified as a county public road as defined by the County Road Map of 1972. Before any new road shall be accepted as a county road, it must meet the road specifications as adopted by the Henry County Planning Commission.

It is further the duty of the Road Commission to let contracts for the construction of roads in said County, and that said contracts shall be let only upon the receipt of sealed competitive bids after reasonable public notice of inviting bids in a newspaper of general circulation in Henry County. Letting of contracts and taking of bids shall be done pursuant to and in accordance with the provisions of Tennessee Code Annotated, 5-1408 and amendments thereto, for letting contracts.

The Commission shall keep detailed records of all bids and bidders. The purchases or contracts let for construction by the Commission shall be let to the best bidder subject to desirable bidding requirements. The Commission is further empowered to contract with State and Federal Agencies as may be appropriate to carry out their duties.

It shall be the duty of the County Road Commission to see to the removal of obstructions of roads, bridges and ditches; to clean out and clear all fences and ditches along or adjacent to county roads. It shall be the duty of the County Road Commission to prescribe rules and regulations governing the weight and size of motor vehicles using county roads, said rules and regulations to be reduced to writing and approved by the Quarterly County Court in accordance with County, State, and Federal regulations.

SECTION 9. All purchases of supplies, materials, equipment, and contractual services and all sales of county-owned property which has become surplus obsolete, or unusable, shall be governed by Tennessee Code Annotated, Section 5-1408; with the exception of and in lieu of County Purchasing Agent, the County Road Supervisor with the authority of the Road Commission shall act as Purchasing Agent for the County Road Commission. Practices as outlined in the Budget Law of the County shall take precedent.

Purchase of used capital outlay items shall be in keeping with sound business practices, carefully weighing the true market value of such item. Said purchases being made with the approval of the Road Commission and in conformance with budgetary limitations.

SECTION 10. There is hereby created an executive officer of the county road system to implement the County Road Law. The official title of the executive of the county highway or road system shall be county road supervisor. The county road supervisor shall meet the requirements for such chief administrative officer, as set forth in Tennessee Code Annotated, Section 54-1004. The county road supervisor shall be elected by a majority vote of the county road commission, and shall serve at the sufferance of said commission.

The compensation of the county road supervisor shall be as the county road commission may from time to time set in accordance with the budget passed by the county commission.

The county road commission may grant the county road supervisor permission to spend, in the event of an emergency, not more than \$1,000.00 for county road purposes without first obtaining the approval of the county road commission.

As amended by: Private Acts of 1979, Chapter 54.

SECTION 11. Before entering upon the discharge of his duties, the county road supervisor shall take and subscribe to an oath in writing before the county court clerk or some other official authorized by law to administer oaths, that he will faithfully perform the duties of his office as county road supervisor. He shall also enter into a fidelity bond in the amount as required by state law payable to the State of Tennessee for the use and benefit of the county and conditional upon faithful discharge of his duties for the accounting of all money and property coming into his hands in the official capacity. The premium for the bond shall be paid out of the county general fund in the same manner as other disbursements are made.

As amended by: Private Acts of 1979, Chapter 54

SECTION 12. The county road supervisor is charged with the duty of carrying out policies of the county road commission. It shall be the duty of the county road supervisor to employ and discharge all personnel, administrative and otherwise, and to fix the wages and salaries within salary ranges set by the county road commission. The county road supervisor shall perform such duties and be vested with such responsibilities and authority as the county road commission may from time to time direct.

The county road supervisor shall under the direction of the county road commission, act as state and federal aid coordinator in all instances where state or federal aid may be involved in the construction, maintenance or improvement of county roads and bridges; work in cooperation with all agencies, officials, and employees of the state and federal governments in the planning of county road building and improvement projects, in providing engineering services necessary to be provided by the counties in connection with such projects, in the procurement of right of ways and to report on and make

recommendations relating to all such projects to the road commissioners whose duty it shall be to take appropriate action with respect to such reports and recommendations.

As amended by: Private Acts of 1979, Chapter 54

SECTION 13. The county shall furnish a vehicle to the County Road Supervisor for his use in the discharge of his official duties. The purchase price of said vehicle, the expenses incident to the maintenance and operation of the same, while used by the Supervisor in the discharge of his duties, shall be paid out of the county road fund as in the case of machinery purchased for the use of the county.

SECTION 14. Neither the County Road Supervisor nor the County Road Commission shall authorize or knowingly permit trucks or road equipment, rock or crushed stone or any other materials to be used for private use or the use of any individual for private purposes other than approaches, at fills and outs, and the failure to see that this provision is enforced shall constitute a misdemeanor in office.

SECTION 15. Neither the County Road Supervisor, County Road Commission, nor any employee of the County Road Department shall be financially interested in or have any personal interest, either directly or indirectly, in the purchase of any supplies, machinery, materials or equipment for the Department or System of Roads for the County or in any firm, corporation, partnership, association or individual selling or furnishing such machinery, equipment, supplies and materials; nor shall the County Road Supervisor, County Road Commission, or any employee thereof accept or receive either directly or indirectly from any person, firm, partnership or association to whom any contract may be awarded, any rebate, gift, or other thing in money or thing of value or any promise, obligation, or contract for future award for compensation.

Any employee of the County Road Department who shall use any truck or other road equipment, rock, crushed stone, or other road material for his personal use or sell or give away the same shall be immediately discharged.

Any person who knowingly allows his property to be improved by having a road built thereon, material placed thereon, or road equipment used thereon is in violation of this provision and shall be liable to the County for the value of such improvement.

Violation of any of the provisions of this Section shall subject the person or persons responsible to such criminal and/or civil actions as are available to the County under Tennessee Law.

SECTION 16. The county road supervisor shall submit quarterly to the county legislative body, a full and complete report of its activities showing in such reports the budget appropriations, the amount of road funds on hand at the beginning of the quarter, amounts received from any source during the quarter together with an itemized statement of all amounts expended for labor, machinery, supplies, materials, equipment and other expenditures during such quarter accompanied by a complete list of all articles purchased, the number of laborers and clerical help employed, and the amount paid each, the number of miles of road constructed, repaired or maintained or fraction thereof in each road district where the work was performed.

As amended by: Private Acts of 1979, Chapter 54

SECTION 17. Half of all funds received from the State as the proceeds of gas tax and other sources, except Federal Secondary and State rural roads fund, shall be used in the six road districts created by this Act for the purpose of grading, draining, and bridging the roads in said districts, and divided between the six road districts in the county proportion to the mileage of public roads other than state roads in said district, exclusive of the incorporated towns, as shown by the last Federal Census. The other half of said funds received from the state as the proceeds of the state, automobile tax, etc., shall be used in surfacing and maintaining the surface of the roads in the county with gravel. The number of cubic yards of gravel used in each of the county's six road districts each calendar year shall be in proportion to the mileage of public roads other state roads in said district, exclusive of the incorporated towns, as shown by the last Federal Census, and said Commission and Road Supervisor shall keep a record of the cubic yardage of gravel used in each of the six road districts which said record shall be open to public inspection.

SECTION 18. All county prisoners subject to labor shall be employed on the public roads as the County Court may direct subject to existing laws.

SECTION 19. Any violation of any of the provisions of this Act by an elected official or appointed person constitutes official misconduct and a misdemeanor in office, punishable by a fine of not less than \$200 nor more than \$1,000.00 and removal from office as provided by Tennessee Code Annotated, Section 8-2701 et seq.

SECTION 20. If any part or section of this Act shall be declared unconstitutional, it shall in no wise affect the validity of the remaining part or sections of the same.

SECTION 21. All laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

SECTION 22. A copy of this law shall be on file in the Road Supervisor's Office at all times.

SECTION 23. Chapter 620 of the Private Acts of 1933 as amended by Chapter 98 of the Private Acts of 1947, Chapter 187 of Private Acts of 1951, Chapter 280 of the Private Acts of 1965, and Chapter 17 of the Private Acts of 1971 are repealed.

SECTION 24. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 25. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For the purposes of electing the officers hereinabove provided, it shall become effective upon being approved as provided in Section 24. For all other purposes, it shall become effective September 1, 1972.

Passed: March 23, 1972.

Highways and Roads - Historical Notes

The following is a listing of acts which once had some effect upon the county road system in Henry County, but which are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1821, Chapter 6, required the respective courts of all counties to classify their roads into three classes. The first class being stage roads, the second class being roads twelve feet in width and the third class being roads wide enough to pass a horse and rider. The act empowered the Justices of the Pleas and Quarter Sessions Courts to establish ferries wherever necessary for public convenience.
2. Private Acts of 1829, Chapter 33, authorized Robert L. Brown and Elijah Foster to raise up to \$5,000 by a lottery. The funds would be used to construct and improve the road from the mouth of Big Sandy River to Paris. Daniel Mason, John H. Dunlap, Thomas K. Porter, John W. Cooke, Washington J. Dewitt and Julian Frazier were to draft the lottery scheme and supervise the drawing. Terance Cooney, James Cowan, David Armour, Hugh Dunlap and Crawford Bradford were appointed to be Road Commissioners. They had to execute a bond in the amount of \$10,000 and were empowered to appropriate the money needed for improvements.
3. Private Acts of 1833, Chapter 267, authorized James Bond and Benjamin Bond to build a bridge across the Big Sandy River at or near Bond's Ferry under the direction, supervision and according to the plans of T. L. Darnell, Constantine Frazier and Richard Manley. The cost of the bridge was not to exceed \$200 which was to be paid out of the internal improvement funds of Henry County. The bridge was to be a free bridge.
4. Private Acts of 1835-36, Chapter 111, authorized the Internal Improvement Board of Henry County to contract with the lowest bidder and have a bridge built across Main Sandy River at or near Bonds Ferry. The bridge would be a free bridge and its cost paid from the internal improvement fund. The building and erecting of the bridge was not to interfere with the free navigation of the Big Sandy River.
5. Private Acts of 1859-60, Chapter 114, required the County Courts in Henry, Carter, Johnson, Greene, Obion, Robertson, Meigs, McMinn, Monroe, Polk, Cheatham, Washington and Cannon Counties to classify the public roads into three classes and to assess the tax upon the property and polls of said counties. The purpose of the tax was to maintain and repair the public roads in said Counties. The voters would be allowed to vote for or against assessing the tax. The taxpayers could work off their taxes under the direction of those who undertook to maintain and repair the roads at \$1 a day for eight hours. The County Court would receive sealed bids from persons desiring to undertake to do the roads and required the giving of bond and security for the faithful performance of the work.
6. Acts of 1901, Chapter 136, was a statewide road law for all counties in Tennessee under 70,000 in population. The County Court in each county would select a Road Commissioner at its January meeting for each road district. The road districts would be coextensive with the County Civil Districts. The act detailed the duties of the Road Commissioners and the road section overseers to be appointed by the Commissioners. Male residents of the County were subject to road work but could commute the duty by paying a fee. Prisoners of the County were also subject to road work. A tax levy was authorized not to exceed twenty cents per \$100 valuation.
7. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, above, in several details but most importantly in the manner in which the Road Commissioner would receive and dispose of petitions to open, close or change the roads.

8. Acts of 1909, Chapter 166, empowered the Quarterly County Court to elect five Road Commissioners for Henry County. They would then elect a Road Supervisor for the County. The Road Supervisor had to execute bond in the amount of \$5,000 and serve a two year term in office. The Road Supervisor was responsible for supervising the public roads in the County. The public roads were divided into three classes and the Road Supervisor was authorized to assign persons to work on the public roads. The act set out the procedures for petitioning to change, widen, restore, open or close a public road. All males in the county between 21 and 50 years of age were required to labor on the roads for a minimum of five days for eight hours a day each year. However, a substitute could be used, but the County Trustee had to be paid fifty cents per day by the individual being relieved by the substitute. County prisoners were also used for labor on the public roads. The County Court could levy a tax for highway purposes.
9. Private Acts of 1917, Chapter 434, repealed Acts of 1909, Chapter 166.
10. Private Acts of 1917, Chapter 757, empowered the Quarterly County Court of Henry County to elect four Road Commissioners. They would then elect a County Engineer for the County. The County Engineer had to execute bond in the amount of \$5,000 and serve a two year term in office. The County Engineer was responsible for supervising the public roads in the County. The roads were divided into three classes and the County Engineer was authorized to assign residents to work on the public roads. All males in the County over 21 and under 50 years of age were required to labor on the roads for a minimum of five days for eight hours a day each year. Release from labor could be had by using a substitute and paying the County Trustee seventy-five cents for each day of use. Prisoners were required to labor on the roads and a tax could be levied by the County Court for highway purposes.
11. Private Acts of 1919, Chapter 41, amended Private Acts of 1917, Chapter 757, by setting the commutation fee of all males over 21 and under 50 years of age, who would be required to work a minimum five to a maximum eight days on the public roads as the Quarterly County Court would determine, at \$7.50 regardless of the number of days to be worked. No male under 18 years of age could be used as a substitute.
12. Private Acts of 1919, Chapter 311, amended Private Acts of 1917, Chapter 757, by increasing the pay of the County Engineer from \$1,200 to \$1,500 a year and by increasing the daily rate of compensation for the Board of County Commissioners from \$3 to five dollars \$5. The maximum number of days for which the Board could be paid was increased from thirty to forty.
13. Private Acts of 1921, Chapter 265, amended Private Acts of 1917, Chapter 757, by increasing the population requirement based upon the 1920 census figures. The act raised the commutation fee from 75¢ to \$1 for work done on the public road before March 1 of that year, to \$1.25 from March 1 to July 1, and to \$1.50 thereafter. The amending act provided for the County Commission to meet once every two months and receive a report from the County Engineer on the work done the two preceding months. Commissioners received no pay for their services.
14. Private Acts of 1923, Chapter 291, provided that the four elected members of the Board of Road Commissioners as described in Private Acts of 1917, Chapter 757, receive for their services the sum of \$3 per day, not to exceed thirty-five days per year, for which the County Judge would issue warrants.
15. Private Acts of 1927, Chapter 249, amended Private Acts of 1917, Chapter 757, above, by reducing the population requirement based upon the 1920 census figures and leaving the number of days for the males of the county to work on the roads to the discretion of the court. The act also reduced the commutation fee from 75¢ to 60¢ and by extending until May instead of March the time to pay said fee. The act provided for a member of the Board to be elected Chairman and one be selected as Chairman Pro Tem. The other amendments in the act have the effect of removing the County Judge as the ex-officio Chairman of the Board and by taking away the salary he received as such.
16. Private Acts of 1929, Chapter 660, amended Private Acts of 1917, Chapter 757, Section 13, by requiring all males over 21 and under 50 years of age, except those in cities, to work six days on the Henry County public roads each year or they could exempt themselves from such work by paying \$1.50 for each day to be worked. Males under 18 years of age could be act as substitutes in performing the work.
17. Private Acts of 1931, Chapter 125, divided Henry County into four Road Districts. The Quarterly County Court was empowered to elect four Road Commissioners who would then employ a County Engineer. The County Engineer was required to execute a \$5,000 bond and would supervise the public roads, laying the roads out into three classes under the direction of the Road Commissioners. The County Engineer had the authority to employ agents and servants to labor

- on the roads and were permitted to use county prisoners also. The Quarterly County Court was authorized to levy a tax for highway purposes. The act provided for a tax of two cents to be levied on every gallon of gasoline sold at retail in the county with the revenue received to be used for construction and maintenance of gravel and hard surfaced roads. The Board of Highway Commissioners could employ an attorney to advise and represent it on related matters.
18. Private Acts of 1931, Chapter 510, amended Private Acts of 1929, Chapter 660, above, by reducing the number of work days a resident was required to work on the county road to five and the commutation fee was fixed at 60¢ per day. A male resident over 21 and under 50 years of age was subject to road work could be released upon paying the commutation fee by March 1 of each year. The act disallowed substitutes under age of 18 to perform the road work.
 19. Private Acts of 1931, Chapter 511, amended Private Acts of 1917, Chapter 757, Section 14, by deleting the phrase that "no road hands would be warned to work the roads after August 31 of each year."
 20. Private Acts of 1933, Chapter 620, divided Henry County into four Road Districts. The County Highway Commission was created and composed of five Commissioners, who were elected by the qualified voters to serve a two year term. Four of the Commissioners were elected from the qualified voters of their respective districts and the fifth Commissioner was elected by all the qualified voters in the County and would be the Chairman. The act also provided for the election of a Supervisor of Roads. Males over 21 and under 50 years of age were required to labor five days unless exempted by paying 60¢ for each day of work. All county prisoners were subject to labor and males under 18 years of age could not be used as substitutes for residents paying to be exempted. A tax levy was assessed to repair and preserve the roads and bridges and half of the funds received from the State as the proceeds of gas and automobile taxes was to be used for road purposes.
 21. Private Acts of 1943, Chapter 378, amended Private Acts of 1933, Chapter 620, above, by raising the allowable expense for clerical assistance for the Road Supervisor from \$150 to \$720 annually and by increasing the Road Supervisor's salary from \$1,200 to \$1,500, payable \$150 per month.
 22. Private Acts of 1947, Chapter 72, repealed Private Acts of 1943, Chapter 378.
 23. Private Acts of 1947, Chapter 98, amended Private Acts of 1933, Chapter 620, above, by making the Road Supervisor subject to one year appointment by the Highway Commission at its regular January term instead of being elected by the qualified voters. Each year the Highway Commission would fix the Road Supervisor's salary when the budget was submitted. During the interim his salary was set at \$200 per month. The clerical assistance expense for the Road Supervisor was raised to \$1,200 a year and a car would be furnished to the Road Supervisor for which the operational expenses would be paid by the County.
 24. Private Acts of 1951, Chapter 187, Private Acts of 1933, Chapter 620, and Private Acts 1947, Chapter 98, both above, to provide for the popular election of the Road Supervisor at the same time the Highway Commissioners were elected and for the terms to be the same length. The Road Supervisor's salary would be \$3,000 per year, payable in equal monthly payments.
 25. Private Acts of 1955, Chapter 409, amended Private Acts of 1933, Chapter 620, above, by providing that the Chairman and Board of Highway Commissioners meet once a month and have a report from the Road Supervisor on the work done the preceding month. Said Chairman and Board would be paid \$25 a month and could not make purchases exceeding \$250 without receiving bids.
 26. Private Acts of 1959, Chapter 299, amended Private Acts of 1933, Chapter 620, as amended by Private Acts of 1947, Chapter 98 and Private Acts of 1951, Chapter 187, all above, by increasing the salary of the Road Supervisor from \$3,000 to \$5,000 a year. This act failed to receive approval by the proper parties and never became a law.
 27. Private Acts of 1963, Chapter 288, provided for the general election of four Commissioners, one from each of four Road Districts and the Chairman to be elected from the county at large. Each Commissioner had to execute a \$5,000 bond and would receive \$25 per month as compensation for their services. A County Road Superintendent would be elected by a majority of the Commissioners. The Road Superintendent had to execute a bond in the amount of \$25,000 and his salary would be set by the Commissioners between \$5,000 and \$7,000 annually. The Superintendent was to have control over all work done on roads, highways, bridges or levees in Henry County. This act failed to receive approval by the proper authorities therefore, it never became law.
 28. Private Acts of 1965, Chapter 280, amended Private Acts of 1933, Chapter 620, as amended by

increasing the salary of the Road Supervisor to \$5,000 and required him to act as the coordinator for State and Federal Aid in all instances where said aid may have been involved. The Highway Commissioners would be paid \$30 a month instead of \$3 per day and would act as Commissioners of State and Federal Aid, where said aid may be involved in the construction and maintenance of all the county roads and bridges.

29. Private Acts of 1971, Chapter 17, amended Private Acts of 1933, Chapter 620, as amended above, by providing for six instead of four Road Districts and for one Commissioner to be elected from each Road district and the Chairman from the county at large. The seventh Commissioner was to be elected by the Supervisor of Roads and would have the duties of coordinator and director of all programs concerned with solid waste collection and disposal outside the limits of any city.
30. Private Acts of 1972, Chapter 326, repealed Private Acts of 1933, Chapter 620.
31. Private Acts of 1982, Chapter 367, amended Private Acts of 1972, Chapter 326, reprinted herein, by specifying that the County Road Supervisor would meet the requirements for chief administrative officer set out in Tennessee Code Annotated Section 54-7-104. This act was not approved and never became law.

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