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COMPETITIVE SERVICE HIRING PROVISIONS FOR FORMER EMPLOYEES OF ASCS COUNTY COMMITTEES

GOVERNMENT

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DOCUMENTS

HEARING

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BEFORE THE

SUBCOMMITTEE ON

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MANPOWER AND CIVIL SERVICE

OF THE

COMMITTEE ON

OFFICE AND CIVIL SERVICE

USE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

H.R. 12361

A BILL TO AMEND TITLE 5, UNITED STATES CODE, TO EXTEND CERTAIN BENEFITS TO FORMER EMPLOYEES OF COUNTY COMMITTEES ESTABLISHED PURSUANT TO SECTION 8(b) OF THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AND FOR OTHER PURPOSES

AUGUST 3, 1976

Serial No. 94-90

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COMPETITIVE SERVICE HIRING PROVISIONS FOR FORMER EMPLOYEES OF ASCS COUNTY COMMITTEES

TUESDAY, AUGUST 3, 1976

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 10 a.m., in room 311, Cannon House Office Building, Hon. David N. Henderson (chairman of the subcommittee) presiding.

Mr. HENDERSON. The subcommittee will be in order.

This morning the subcommittee will receive testimony on H.R. 12361, a bill to facilitate the hiring of former employees of ASCS county committees in competitive career positions in the executive branch.

Testifying today will be representatives from the Department of Agriculture and the National Association of ASCS County Office Employees.

A summary of H.R. 12361, which is in the Members' folders this morning, provides necessary background on the status of county office employees and recaps action taken by the 90th Congress in providing certain benefits under which ASCS county office employees could enter into Federal employment with the Department of Agriculture.

These benefits, enacted in 1968, included transferring annual and sick leave to a position in the Department, creditable service for leave earning and reduction in force purposes, and the highest previous rate salary determination rule.

Such former county committee employees, however, still must meet competitive selection procedures for positions in the Department. The bill we are considering this morning extends these three provisions enacted in 1968 to all departments and agencies in the executive branch.

Our witnesses this morning are Mr. Clyde R. Payne, secretary-treasurer of the National Association of ASCS County Employees, who will be accompanied by Mr. Woodrow Jones, legislative coordinator of NASCOE.

Mr. Payne and Mr. Jones, please come up to the witness table.

STATEMENT OF CLYDE R. PAYNE, SECRETARY-TREASURER, NATIONAL ASSOCIATION OF AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE COUNTY OFFICE EMPLOYEES; ACCOMPANIED BY WOODROW JONES, LEGISLATIVE COORDINATOR

Mr. HENDERSON. I understand you both have prepared statements, and you may both proceed.

Mr. PAYNE. Mr. Chairman, with your permission, I would like to introduce a small group of people we have with us here, to give us moral support this morning.

Mr. HENDERSON. That would be fine.

Mr. PAYNE. From Georgia we have our president, Fritz Scarborough; from Michigan we have our vice president, Wayne Taylor; from Virginia we have a fine group of young folks, some very pretty ladies; a group from Delaware and Maryland; and a group from North Carolina.

I might add that Mr. Voss from Denton, Md., is our northeast area executive committeeman.

Mr. Phillips, from North Carolina, is one of our southeast area executive committeemen.

Sir, except for the fact we have a national convention here next week, I would expect this room would be full. But we do have these folks with us and they will be available to help us answer questions if some should develop at the end of the testimony.

Mr. HENDERSON. Very good.

Mr. PAYNE. Again, with your permission, I would like to file my statement for the record, because some of the things I have brought forth, you have brought forth in your opening remarks and part of it would be repeating.

The other gentleman that is with me today is our legislative committee chairman and legislative coordinator, who is going to present our justification for the enactment of the bill that is here before us today.

Mr. HENDERSON. Very good. Without objection your statement will be placed into the record at this point.

[The complete statement of Clyde R. Payne follows:]

PREPARED STATEMENT BY CLYDE R. PAYNE, SECRETARY-TREASURER OF THE NATIONAL ASSOCIATION OF AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE COUNTY OFFICE EMPLOYEES

I am Clyde R. Payne, Hamilton County ASCS executive director, Jasper, Florida, and secretary-treasurer of the National Association of ASCS County Office Employees.

The National Association of Agricultural Stabilization and Conservation Service County Office Employees (NASCOE) is a voluntary organization of agricultural stabilization and conservation service county office employees—hereafter referred to as county ASCS employees. Approximately 96% of the 8,599 ASCS employees from every agricultural county of the Nation are members of NASCOE. The sole purpose of this organization is to promote the welfare of its members. Each State has a State organization of ASCS county office employees and is affiliated with NASCOE and has two members of NASCOE's board of directors.

NASCOE has national officers and an executive committee representing the five geographic areas of the United States. They are: President, F. H. Scarborough, Jr., Valdosta, Georgia; Vice President, Wayne Taylor, Muskegon, Michigan; Secretary-Treasurer, Clyde R. Payne, Jasper, Florida; Executive Committeeman: Midwest, Warner Walrath, Primghar, Iowa; Northeast, James Voss, Denton, Maryland; Northwest, Donald Maxted, Kimball, Nebraska; Southeast, Neal Phillips, Halifax, North Carolina; and Southwest, Glenn Lamirand, Pawnee, Oklahoma.

NASCOE also have various committee chairmen, including H. Woodrow Jones, national legislative committee chairman, New Boston, Texas, who will present our association's position and justification for enactment of House bill 12361.

NASCOE has no paid lobbyist. All officers, executive committeemen, and committee chairmen are fulltime ASCS employees who perform their NASCOE duties on unofficial time and at their own expense except for travel. ASCS employees are employed by county ASC committees established pursuant to section 8(b) of the Soil and Domestic Allotment Act (as amended).

ASCS employees, under policies and guidelines of county ASC committees, administer Federal programs assigned to ASCS by the Congress, the Secretary of Agriculture, Executive order, etc. Programs administered include but are not limited to: marketing quotas (tobacco and peanuts); price support; cropland adjustment; wool incentives; agricultural conservation; forestry incentives; bee and dairy indemnity; feed grain, wheat, and cotton, including disaster provisions; etc., as well as assisting other agencies upon specific request, such as the Bureau of Census and the Federal Crop Insurance Corporation.

Although county ASCS employees are not civil service employees, the Congress has granted us many of the fringe benefits of civil service employees, including health benefits, retirement benefits, etc., and we feel we are entitled to these and any forthcoming benefits granted Federal employees.

ASCS county office employees are supervised by Federal employees who are civil service employees.

Salaries for ASCS county office employees are 100% derived from Federal funds appropriated by the Congress.

The primary purpose of my statement has been to reacquaint you with our organization (NASCOE), as well as with the functions of ASC committees, county ASCS office employees, etc.

In behalf of county ASCS office employees across the Nation, I respectfully ask you to act favorably on House bill 12361 to enable employees of county ASC committees to transfer benefits as described in the bill to any civil service position. It is also hoped you will initiate action to the effect House bill 12361 can and will proceed through congressional channels at a rapid rate.

County ASCS employees from every agricultural county across the Nation appreciate your past and future efforts in our behalf.

The opportunity to have presented this testimony is appreciated. If you have questions, an attempt to either answer them or obtain answers will be welcomed. Thank you.

Mr. PAYNE. At this time Mr. Jones will present our statement.

Mr. HENDERSON. Mr. Jones, you may proceed.

Mr. JONES. Thank you, Mr. Chairman.

For the record I am Woodrow Jones. I am employed as the Executive Director of the Bowie County Agricultural Stabilization and Conservation Service Office in New Boston, Tex. I speak on behalf of the people who work in the approximately 3,000 county ASCS offices over this country. I do this as legislative coordinator of the National Association of ASCS County Office Employees.

In this day of common alphabetical reference, we refer to ourselves as NASCOE.

My colleague, Mr. Clyde Payne, our secretary-treasurer, has given you information on our membership and the internal structure of this organization, telling how we conduct affairs as representatives of these people.

The agency we work for, Agricultural Stabilization and Conservation Service, ASCS, is one of the largest and most effective divisions of the U.S. Department of Agriculture. Its activities—at all levels—devolve solely from actions here, in the Congress, which direct the Secretary of Agriculture to administer various action programs which you—in your wisdom—have provided our Nation's farmers in efforts to assure adequate supplies of food and fiber for our domestic and export needs, while at the same time trying to protect the environment and our ability to continue an adequate production capability in agriculture.

The people for whom I speak work at the county level of the agency applying these laws, regulations and program provisions to individual farms. Sometime, because we work at this local level, we are referred to as "county" and in some instances, an erroneous impression is made.

We have no connection with any State, county, or local political subdivision other than the fact our area of jurisdiction—generally—is the county where the office is located. However, in some instances two or more counties have been combined giving the office sufficient workload to justify its existence.

Although sometimes told we are "non-Federal" our every official act is governed by Federal statute or directive. As I said earlier, we work only on Federal programs. The Secretary of Agriculture, through subordinates responsible to him, issues the regulations providing conditions of our employment. He delegates authority to issue instructions implementing these regulations. Under this authority handbooks are issued dealing with all program matters.

In addition to implementing the regulations, these handbooks serve as manuals of instructions for county office people. They cover every administrative aspect of county office operation including employment and removal of personnel, budgeting funds, record handling, administrative services, and on and on. They set standards for classification of all positions in the county office, establish rates of pay, procedure for filling vacancies, and minimum qualifications for county executive directors and subordinate positions.

Also, off-the-job standards are set.

As far as Federal direction is concerned, there is no agency whose personnel is more adequately supervised. We receive instructions from the State ASCS office daily. Much of this material is reproduced verbatim as received from Washington.

The District Director, working out of the State office—under its supervision—and who is a career civil service appointee, himself, visits each county office as often as is necessary to see that all directives are being observed to the letter.

In addition, an auditor from USDA's Office of the Inspector General regularly audits all records and programs. There are many other facts establishing that we are as "Federal" as the U.S. Mint, but each of you are well enough acquainted with these activities to make your own deduction without my taking up your time here today enumerating them.

Even though all our actions are controlled and directed through Federal mandate, we are not covered by civil service statute. However, we do enjoy some fringe benefits of the system. I want to thank you for helping us at another time, obtain low-cost life insurance, health insurance, severance pay coverage and retirement benefits as others have in the Federal systems. Also, you have included us in pay adjustment legislation since 1960. We will always be grateful to you for the considerations you have given us.

We understand the legislation being considered, H.R. 12361, provides that ASCS county level employees who separate from their position to accept appointment in other positions within the Federal Government outside the U.S. Department of Agriculture will receive the following benefits.

1. County ASCS employees moving to positions under the Classification Act may have their rate of compensation set at a rate which would eliminate or minimize reductions in salary now required in many cases.

2. Annual and sick leave to the credit of county ASCS employees shall be transferred with them in their employment under the Annual and Sick Leave Act on the same basis as transfers between leave systems provided in that act.

3. County ASCS employee service will be creditable service for determining annual leave earning rate for employees serving under the Annual and Sick Leave Act.

4. County ASCS employee service will be creditable service for seniority purposes in connection with the application of reduction-in-force procedures.

Currently the salary rate paid a county committee employee is not used in establishing the salary rate applicable to his appointment in a position under the Classification Act, outside USDA.

However, we are told the Classification Act does provide for protecting the salary rates of persons appointed from some positions not covered by the Classification Act, such as the Foreign Service of the State Department as well as legislative and judicial employees.

Service as a county committee employee is not creditable service for purposes of the Annual and Sick Leave Act. Annual and sick leave, to the credit of our county employees, cannot be transferred with them when they accept positions under the Annual and Sick Leave Act.

A county employee with 15 years of county employee service earns 26 days annual leave each year. If this same employee is appointed to a civil service position under the Annual and Sick Leave Act, he would earn only 13 days of annual leave each year. Provision for crediting his county service under the Annual and Sick Leave Act would allow this employee to continue earning 26 days of annual leave.

This same employee would probably have a sizable annual and sick leave balance. The acceptance of a civil service position under current law requires that he forfeit his sick leave balance and receive lump-sum payment for his annual leave.

The section of the bill relating to the Veterans' Preference Act would credit county ASCS employee service for seniority purposes in connection with reduction-in-force actions.

Currently our employees entering civil service positions do not receive such credit. They are treated for reduction-in-force purposes as employees entering the Government service for the first time. This fact promotes a feeling of insecurity on the part of county employees considering transfers to civil service positions.

This committee, the 90th Congress and the President, through Public Law 90-367, provided these same benefits for us when we accepted "Federal" employment within the U.S. Department of Agriculture.

We believe this experiment has proven very successful and, now, H.R. 12361, will, if enacted, extend the opportunity to a group of loyal Government employees equal treatment to that enjoyed by other Government employees.

We dispute any claim that enactment will add substantially to the cost of Government. It will, we feel, effect extensive savings since any time a Government department hired a county ASCS employee, it would find them to be adequately trained and efficient.

Our own agency, ASCS, has training, indoctrination, orientation, and work measurement programs that can be models in all of Government. One of the objectives of our association, NASCOE, has always been to encourage professional improvement of our people so we may better serve the American farmer and the public. One of our big items of business in NASCO each year is a professional improvement and awards program.

Money might also be saved by eliminating a need for severance pay if employees facing termination could transfer to other Federal service.

The big saving, however, would come from eliminating need for extensive training.

Finally, I want to point out, this legislation, if enacted, will not give us preferential treatment. It will only give us equal opportunity along with other Government employees to accept other Government employment when a need arises.

We want to emphasize that the legislation would not permit us to bypass any examination or any other qualification requirement. We are just as interested as you or anyone else, in maintaining high employee standards and would be the last group to ask for special treatment or relaxing of any requirements.

Let me say here again, we only hope to be treated exactly like other Government employees in all matters.

I count it a privilege to have imposed on your time this morning. The people I represent appreciate your tolerance and consideration.

Thank you very much for your kindness.

Mr. HENDERSON. Thank you very much, Mr. Jones.

Either you or Mr. Payne may feel free to answer our questions, and the others may elaborate.

In 1968 when Public Law 9367 was enacted, testimony revealed that there were approximately 14,600 county ASCS employees. Today there are approximately 8,600 county employees.

What is the prime reason for the reduction in this number?

Mr. PAYNE. Basically the reason for the reduction is because of the change in the amount of work that is assigned to county ASCS offices. I guess the largest group of reductions-in-force we had was in June of 1973, which was one block of some 3,000 to 3,500 employees. There is just not as much work in county offices today as there was in 1968.

Mr. HENDERSON. Can you tell us how many of the former county employees have been employed by the Department of Agriculture since the 1968 law?

Mr. PAYNE. I don't know—we do not have a specific number. We do know that several people from county offices have gone to work in State ASCS offices, and in the Washington ASCS offices.

We also understand that this has worked out very well for the Department of Agriculture because this gave them trained and experienced people. But I am afraid I can't come up with a number.

Mr. HENDERSON. Are they working primarily in the Department of Agriculture with work related to the ASCS program?

Mr. PAYNE. This is correct. In Mr. Jones' statement he mentioned a while ago that most of our directives are written in Washington, come down to the State offices maybe for some policy determination, then comes down to the county. Basically these people who come to Washington work on these procedures based on laws and they send it back to us.

Mr. HENDERSON. Do you know how many former county office employees are currently working in other departments in the executive branch?

Mr. PAYNE. I, personally, know two. I'm sure there are more than this, but I only personally know two people.

Mr. JONES. Mr. Chairman, fortunately or unfortunately there is a large Government establishment within three blocks from where I live, a regular Army depot. Usually it has a complement of some 6,000 people.

Now, I have trained, over the years I have been in that office, 33 years, and I would say that I have trained and seen transferred to the Army depot as many as 25 people that have gone from my office where we gave them the training. We for many years, we were simply a training grounds for the regular Army depot. In my office, as soon as we got a girl trained, they were ready to pick her up. And I have had at least 25 people from my office individually go for employment at the regular Army depot, which is civil service.

And that is more than most county offices probably have because of the proximity that we are to them.

Mr. HENDERSON. Do you know of any former ASCS county employees that went to the Department of Agriculture, and thereafter transferred to other executive departments?

Mr. PAYNE. I do not know of an individual.

Mr. JONES. I don't either, sir.

Mr. HENDERSON. It would be true, however, if they did that and they can do it, they would carry all of the benefits that were extended to them by the 1968 law as Department of Agriculture employees when they went to other executive departments?

Mr. JONES. It is my understanding that is correct. Once they get into the service and establish credit for the county ASCS time and they subsequently transfer to another department of Government, once they do, it remains as part of their personnel file.

Mr. HENDERSON. And the bill that we are considering simply would extend that right to those employees that went directly from ASCS county offices into other Federal executive departments, other than the Department of Agriculture?

Mr. PAYNE. This is right. It eliminates the necessity to go through the Department of Agriculture prior to entering the Federal agencies.

Mr. HENDERSON. Now with regard to veteran's preference—and I believe that you touched on that—in the first instance of hiring by the county committee, is veteran's preference considered in the initial hiring?

Mr. PAYNE. No, sir.

In the requirements of employment for county ASCS employees, veteran's preference is not a necessity to consider.

I don't want to tell you that it is never considered, but I want to say it is not a necessity to consider.

Mr. HENDERSON. It is not a requirement as it would be for initial hiring in civil service generally?

Mr. PAYNE. Correct.

Mr. HENDERSON. And therefore, as the bill now provides, once an employee that was a veteran, initially hired in ASCS by the county committee, transferred to a department other than Agriculture, that employee would have veteran's preference for purposes of reduction-in-force?

Mr. PAYNE. This is our understanding.

Mr. HENDERSON. The gentleman from South Carolina, Mr. Jenrette?

Mr. JENRETTE. Thank you.

How is the association of which you are president and director financed, please?

Mr. PAYNE. How is it financed?

Mr. JENRETTE. Yes.

Mr. PAYNE. Each State has an association. In a few instances we have a few States combined together to make one association. They have their own State officers, their own board of directors, they collect dues from their membership on a voluntary basis.

And then these State associations affiliate with the national association, and they transmit to the national association, a dollar figure for dues.

In South Carolina, for instance, the gentleman there who is president is from Spartanburg, S.C. They elect their own officers and so forth.

Then in the national association, each State affiliate has two members on the board of directors who set policy and so forth. And as I believe I stated before, we will be having our national convention next week here in Washington. They will be up, they will make our decisions and so forth.

Mr. JENRETTE. Do your decisions have any direction getting up to the Department of Agriculture? What will you do with the decisions that you are going to make next week? Will they affect just your own organization?

Mr. PAYNE. We make decisions and resolutions and goals and so forth of things that will affect our membership.

In other words, the sole purpose of our organization is to promote the welfare of our membership. And yes, we will make certain recommendations that will go to the department. We will have negotiations and so forth with the department on administrative matters. And, of course we will come out with some legislative recommendations.

For instance, this particular type bill we have here today has been of prime interest to our association for several years.

Mr. JENRETTE. Since you have been executive director, how many employees have ceased employment with ASCS and the county because of the discrimination this bill will correct?

Mr. PAYNE. Personally I don't know of anyone. But for some of the younger employees, this is getting interesting to them because of the possibility of going to some other position and so forth. Mr. Jones and I have been working so long we are really happy right where we are and we just want to stay here until we retire.

But I believe the younger group of employees are more interested than the older group. That is a bad way to describe it, but that is the way I feel about it.

Woodrow?

Mr. JONES. Congressman, if you can excuse the personal example, something was said a few moments ago about a reduction in force a few years ago.

I have reduced three employees. One of them had 17 years service, one had 12 years service, one had 7 years service. All of these people wanted to go to the regular Army depot and could have gone there, but they could not take any of their sick leave or any of their other provisions with them. Consequently, they took other employment.

They were well trained, they knew what they were doing. They would have been a real asset to the Defense Department if they could have picked them up. But, because of having to take these cutbacks and reductions we are trying to avoid in this legislation, they took employment elsewhere.

We felt like the Government really suffered a loss there by not being able to pick up qualified people.

Mr. JENRETTE. When they accepted alternative employment, did they not lose any benefits that they might have had while working with you?

Mr. JONES. Yes, sir. But they didn't have to go through the qualifying process that they would have had to have gone through at the regular Army depot.

Fortunately we have one of them back with us now.

Mr. JENRETTE. As a sidelight, Mr. Chairman, Mr. Payne said he has been there a long time and all he wanted to do was retire. I sort of feel that way about my job here, too. [Laughter.]

I was interested in a portion of your testimony, Mr. Jones, relative to your relationship with the regulations coming down from Washington.

This does not have to do with the bill, but I wonder if the regulations that you work by are formed after you are consulted?

Do you give input into the regulations?

Mr. JONES. I would like to answer that. I think we—I don't think any of us are timid. Our district director and our State office people know how we feel about the regulations and many times we do offer input. And fortunately, a lot of times I think we get some things changed. That makes it more operable at the local level.

I think the answer probably would be yes, sir.

Mr. JENRETTE. I am glad to hear that. It is helpful to know that up the street they listen to you a lot better than they listen to us, probably.

Are the committee members that are in the counties elected by your county convention, sir?

Mr. PAYNE. There are two ways. Some counties are what we call a multiple community county. They are elected at the county conventions. Some counties are what we call a one-community county and they are voted directly on by the farmers.

Mr. JENRETTE. Is the State committee political appointment? How are the State committeemen nominated, elected, selected or appointed?

Mr. PAYNE. Officially, I would have to tell you that when we know of a State committeeman being placed in this position—generally there is an announcement from the Secretary of Agriculture saying he has been appointed by the Administrator of ASCS. So we assume they are appointed by some high official in the Department of Agriculture.

Mr. JENRETTE. And the same goes for the State committeemen?

Doesn't each State have a number of committeemen who are directly under or directly answerable to the State director, or vice versa?

Mr. PAYNE. Excuse me. This was the question I thought I was answering, how the State committeeman was appointed. But your State executive director is appointed basically the same way. Yes, sir.

Mr. JENRETTE. Do those terms normally coincide with that of the president? How do the terms for the State director function?

Mr. PAYNE. It is my understanding that the State committeeman's term, when they are appointed, are for a year at the time and are reappointed at the beginning of every year.

Now as far as the State executive director, how long his term of appointment is for, I do not know, sir.

Mr. JENRETTE. Do you have knowledge of any county ASCS officers being prosecuted for misuse or misdirection of land allocation or allotment allocations within a county?

Mr. PAYNE. I heard a couple of rumors, but this is the extent of it. I don't know of any, sir.

Woodrow?

Mr. JONES. I know of two cases in my own State in the last year that have been tried in Federal courts.

In one case it was my understanding that the Federal judge threw the case out for lack of evidence, and the other case there was a unanimous decision of not guilty.

Mr. JENRETTE. Thank you.

I think that is all, Mr. Chairman. I would be happy to support the legislation if my distinguished chairman and leader from North Carolina—I'm a little disappointed—I guess I should know better now being in politics, that the chairman of the committee is from North Carolina and I see the southeastern director is from North Carolina. I guess that is pretty wise, and I wish he was from South Carolina. [Laughter.]

Mr. PAYNE. We used to have one from South Carolina.

Mr. HENDERSON. I thank the gentleman, and appreciate his comment about his own interest in retaining the position he now holds. I certainly would be very pleased to see that come about myself.

As I look at some of the legislation that has been our task the 16 years I have been here, the gentleman might stay that long himself and certainly I would be very pleased to see him stay even longer than that, I expect there will always be some legislation that will be beneficial to Federal employees from time to time.

We have talked about the country ASCS employees going to the Department of Agriculture. One reading of it might assume that we are talking about all of them coming to the headquarters here in Washington. More often they go to the State offices rather than to the headquarters here in Washington.

Isn't that true?

Mr. PAYNE. That is correct.

Mr. HENDERSON. So the opportunities for the county employees who do a good job, are well trained and experienced, are greatest in the several States rather than they would be in the headquarters in Washington.

They might eventually end up in Washington, having served in the State offices as civil service employees of the Department.

Isn't that true?

Mr. PAYNE. This is correct; yes, sir.

Mr. HENDERSON. The gentleman from Missouri, Mr. Taylor, is with us this morning. I am appreciative of his attendance and yield to him.

Mr. TAYLOR. Thank you, Mr. Chairman. I apologize for my tardiness this morning.

I would like to address my appreciation to the National Association of ASCS County Office Employees.

I am familiar, I think, pretty well with NASCOE people and NASCOE in my State. I am not certain, we haven't had a chance to review the legislation, exactly what the impact of it is. I assume that it is to give people who live and work in the county ASCS offices an opportunity to transfer to other jobs within the Department of Agriculture. Is this the—

Mr. PAYNE. To other positions in the executive branch. We can already transfer into the Department.

Mr. TAYLOR. Within the Department you can?

Mr. PAYNE. We can, and we want to extend it to the other branches in the executive branch.

Mr. TAYLOR. Let me ask you this.

Have you had a substantial reduction-in-force at the ASCS employees? Is this one of your concerns because the reduction-in-force people who are not presently employed want to look for other places?

Mr. PAYNE. I think that this has been a factor over the years, of the need and the necessity for this so that these well-trained employees can go to other positions and carry their fringe benefits with them. And therefore, not only the employee gains, but the Government gains also by getting these well-trained competent employees.

Mr. TAYLOR. Are the people who work in the State offices, in the ASCS program, do they have this opportunity now?

Mr. PAYNE. Yes, sir.

Mr. TAYLOR. In other words, the people who staff the State offices have this opportunity?

Mr. PAYNE. Yes, sir.

Mr. TAYLOR. State executive director, people within it, they can transfer to other—they can carry their civil service status with them. If they are a GS-14 or a GS-12, they can transfer to the Department of Defense—can they do this—HEW or where else they might be qualified?

Mr. PAYNE. Sir, I would have to say that all the employees within a State office can do this. But I would have to make an exception to the SED, because I don't know about the SED because this is a little different type of employment.

Mr. TAYLOR. As I understand it, the SED, your State committee, is appointed on an annual basis by the Secretary of Agriculture—three members in some States, five members in some States.

Mr. PAYNE. Yes.

Mr. TAYLOR. They serve for 1 year at the pleasure of the Secretary of Agriculture.

The State committee in turn, as I understand it, is the employer, the one who selects the SED State office director, State executive director who serves at the pleasure of the State committee, who is appointed by the Secretary of Agriculture.

Mr. PAYNE. Yes, sir.

Mr. TAYLOR. Does he, does the SED have civil service status? Is he under their protection or is he strictly a political appointee?

Mr. PAYNE. He is an appointee under what we call the schedule A, which means he doesn't have certain retention rights and bumping rights and so forth.

Now I am assuming that if he were to transfer to some other position he can carry fringe benefits that he might have accumulated over a period of time, also.

Mr. TAYLOR. But the rest of the people in the State office, the department chiefs and so forth, they have Civil Service rights?

Mr. PAYNE. No question about it, they can transfer.

Mr. TAYLOR. All right.

Now your CED who serves at the pleasure of the county ASCS committee, and they are elected as I understand by the farmers themselves. In township meetings they elect their committee people who in turn elect the three-man board that makes up the county ASCS committee?

Mr. PAYNE. That is right.

Mr. TAYLOR. So those are not political appointees? They actually come up from the grassroots through the township, elected by the cooperatives in the ASCS program.

Now they, in turn, select the CED, is this true?

Mr. PAYNE. This is correct.

Mr. TAYLOR. What is the status of the CED? What rights does he have?

Mr. PAYNE. He can transfer into any position in the USDA where he meets certain requirements and qualifications and so forth and transfer his fringe benefits.

But he cannot do this to any position outside of USDA.

Mr. TAYLOR. We just received letters from the Civil Service Commission and the Office of Management and Budget opposing this bill. They think the Congress original intent in giving headstart to them, and giving a headstart in employment in the USDA was to limit this headstart to a single agency.

Do you remember much about the understanding of the original law when it was passed back in 1968?

Mr. PAYNE. 1968.

This is the bill that permitted us to transfer into the Department of Agriculture. And at that particular time—you correct me, Woodrow, if I am wrong—the Department of Agriculture testified, presented testimony favorable to this, and one of their basic reasons that they wanted this was so they could go to this pool of trained, qualified employees on the county level, experienced employees, and bring them into positions at the State office and our Washington office.

I believe this was the basis for testimony favorable.

Mr. JONES. That is correct.

Mr. TAYLOR. What is the situation as it relates to the Conservation Service, Farmers Home Administration and other agencies within the Department of Agriculture?

Do they have the same restrictions that you now have, or do they have the benefits that you want?

Mr. PAYNE. They have career civil service status. And if they transfer to any other branch, any other agency of the executive branch, they can transfer their fringe benefits and so forth even though he works on a county level.

The man next door to me is an SCS man. If he wanted to transfer to—Mr. Jones mentioned the Red River Arsenal—if he transferred to the Red River Arsenal, he would carry with him his fringe benefits. I couldn't.

Mr. JONES. That is our main contention here. This man has been trained just like the people we rub shoulders with each day, doing the same work for the same people. We would like the same treatment.

Mr. TAYLOR. Then the ASCS is the sole agency within the Department of Agriculture that has the restrictions that you now live under?

Mr. PAYNE. This is correct. We are the only ones.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. HENDERSON. The chairman has received this morning, a communication from the Department of Agriculture in response to my request of March 18, for a report on this bill.

There is unanimous consent that the letter be made a part of the record.

And reading from the letter, in part, it says, "this Department defers to the Civil Service Commission and the other agencies that would be affected by this bill."

We had anticipated by way of our invitation and response, that we would have witnesses from the Department of Agriculture to testify this morning. But we were advised yesterday they would be unable to attend.

Having quoted from the letter, I think it is obvious that the legislation primarily affects the other departments and agencies more than it does the Department of Agriculture.

And obviously, we would expect to subsequently hear from the Civil Service Commission.

Now the Chair also has the report from the Civil Service Commission that I request be made a part of the record.

This is dated July 30, in response to my request for the Commission's view. Without going into the other matters, I would point out that the Commission recommends against the enactment of the bill.

We will receive the Commission's testimony at a later date on all of the items here, but inasmuch as your testimony was so clear on this point, I want to read from the Civil Service Commission's report.

It says:

This would impose substantial unwarranted cost and result in considerable inequities as compared with benefits provided other employees belonging to the Federal service.

Your testimony seemed to be clear there would be no cost.

I am at a loss to know what the Commission means by their statement that this would impose "substantial unwarranted cost," and

we assure you we will inquire of the Commission an explanation of that statement.

There is one area where I want to ask one question.

For a county ASCS employee to transfer into the Department of Agriculture and to obtain the benefits of retirement under the Federal retirement service, does he have to make a contribution to the Federal retirement system for the past service as an ASCS employee, county employee?

Mr. PAYNE. Sir, I may give a date that is slightly incorrect, but since July 1 of 1960.

Mr. JONES. July 10.

Mr. PAYNE. Since July 10 of 1960, we have been under the retirement system and we have been contributing all these years. Now for any period of service that we worked prior to July 10, 1960, we have the option of going back and—I call it purchasing this time and paying into the retirement system.

Some of our people purchased this back time prior to July 10, some didn't. I did not.

Mr. HENDERSON. I recall when we handled the legislation at that time, we put that provision in. But I wanted this record to show that clearly there would be no cost to the Federal retirement system by the enactment of this bill because the employee going to some other department or agency would get no retirement benefits for which he had not participated in the retirement fund, because to go back beyond the date of 1960 you have to, as we refer to it, "buy in."

Mr. JONES. We are treated there just like everybody else. We either had to buy, or take option of taking the 10-percent reduction.

Mr. TAYLOR. Would you yield for a moment, please?

Mr. HENDERSON. Yes.

Mr. TAYLOR. One question.

When these employees are hired at a county level, whether they be clerk-typist or whatever, they aren't hired from the civil service register, are they?

Mr. PAYNE. No, sir.

Mr. TAYLOR. They are not hired from the civil service register?

Mr. HENDERSON. If the gentleman would yield, that leads to a question that we could well ask at this point. And I have some doubt in my mind about asking it for the record.

The distinguishing feature of these employees, when they are initially hired, is that they are hired under rules and regulations promulgated by the Department of Agriculture that are all very similar to the civil service rules and regulations.

But, as they pointed out this morning, one distinguishing feature is that the veteran's preference law does not apply in the initial hiring. Since the employees do not, in the initial instance, take the civil service test, the Civil Service Commission's recommendation has been in the past—and they do not make that recommendation in the report filed on this bill—that these employees be made full civil service employees and that appointments be made in the usual manner from the civil service register.

Now it has been my understanding that the position of your association in the past, as well as the position of the Department of Agriculture, has been that the right to hire and fire ASCS county

employees was originally set up and has best been served—served the Department and the programs administered, by having that local control, the right to hire and fire and administer, within the rules and regulations promulgated by the Department in the county committee. And so it has been for that reason, as I recall, the Department has not been in favor, and the association has not been in favor of the recommendations of the Civil Service Commission, that we move to the full civil service employment. Am I correct in that?

Mr. PAYNE. That is correct.

Mr. JONES. Yes, sir.

The Congress has always determined that the nature of our employment—and they have seen fit to administer our programs through the farmer elective committee system. We think it has worked well these 40-odd years.

And I would say this for our association. We have been willing in the past, and we are willing now, and we will be in the future, to serve the farmers as best we know how in any capacity and under the conditions that you people, in your wisdom here, set for us to work at.

However, if they had recommended such, and you do consider such a move, we would strongly recommend, I think, that you first consider giving these elected committeemen some kind of schedule A appointment so that they would become Federal officers and could hire the county executive director and continue to supervise him.

And this action might, in turn, make him a Federal officer so that he could continue to hire and supervise the subordinate people and thereby maintain the autonomy of this committee, farmer elective committee system that we have seen work so well.

Mr. HENDERSON. The basic thing to understand about these employees, and what has given us far greater problems in the past than we are addressing at this point, has been the fact that the basic manner in which these programs for the farmers have been set up, first by the referendum of the farmers in the programs themselves, the farmers have the right under the law to determine whether or not those programs are put into effect.

But in connection with the county officers, we are talking about the elected committeemen, they are elected by an election conducted by the ASCS officers of the farmers in that particular county. I am sure the gentleman is familiar with the election process. The county committee that is elected is the one that selects the county director we have been talking about and by testimony the witnesses have given, that county director is not an officer of the United States for the purpose of appointment. Therefore, the county employees have not been appointed through the strict civil service procedures.

As a result, these problems have arisen from time to time, to which we have addressed ourselves, as we are this morning.

Mr. TAYLOR. Thank you, Mr. Chairman.

Now as I understand it, these people do not have civil service status as commonly defined. And if they did desire—if this bill was enacted and they did desire to move on to another agency of the Federal Government, of course, they would be required to take a civil service examination and qualify on the Register. Is that true?

Mr. PAYNE. We would have to meet the basic requirements like anybody, yes.

Mr. TAYLOR. They would have to take an examination and be graded by the Civil Service Commission and hired according to their grading as given by the Civil Service Commission.

Mr. PAYNE. This is correct. It would give us no preference over anyone else.

Mr. TAYLOR. Thank you.

Mr. HENDERSON. Gentlemen, as I understand the objection of the Civil Service Commission it simply goes to the point that as we have done for the Department of Agriculture, what we are proposing is to give credit for accumulated leave and these other benefits in a period of time in which they were not, because of the system, civil service employees, even though the requirements of the law would be that they take the exam and enter into the civil service through the usual competitive system.

It seems to me that the legislative history presented for what we have already done for the county employees coming into the Department of Agriculture, is a good precedent for the Congress to do the same thing, if it desires to do so, for the other departments and agencies.

The experience that we understand they have had in the Department of Agriculture of becoming well-trained and proven employees is certainly to be considered in offsetting any small costs that might be attributable to the enactment of the legislation. I emphasize "might be" contributed, because I simply don't know of any cost, certainly not substantial or unwarranted cost as stated by the Commission. We will pursue that point with them.

Thank you gentlemen.

Mr. TAYLOR. Mr. Chairman, the Commission in its report to you in response to your letter speaks of transfer of accumulated sick and annual leave.

It seems to me that they are not transferring, they already have it. It has been earned, hasn't it?

I don't understand what the Commission means by transferring sick and annual leave if the sick and annual leave has already been accumulated in the system that these employees are presently under. There is no more contingency of liability to transfer it, than it is like it is now, is there?

Mr. PAYNE. Mr. Taylor, let me use myself as an example.

I happen to have—I don't have any annual leave accumulated, I have a little time in. But I happen to have 2,500 hours of sick leave that I have accumulated over the years.

The Lord has been nice to me and I haven't been sick.

If I were to transfer to some other Federal agency I would love to carry this with me. As it is today, if I go to work for another agency, I cannot carry this with me. I start with zero.

Mr. TAYLOR. But the point I am making is that the contingent liability of the Federal liability for the Government to pay for that sick leave would be no greater if you transfer it, than if you just stay where you are. If you stay where you are they still have the contingent liability to pay those 2,500 hours if they have been accumulated, unless your new job broke it down somewhere.

Mr. PAYNE. This is correct. Their liability is the same.

Mr. TAYLOR. If I might, Mr. Chairman, it seems to me that the Commission here keeps addressing itself to these people as being in non-Federal county service.

They are really not in non-Federal county service, are they? Their check comes on one of those hard-backed checks that says "Do not fold, spindle or mutilate," like everyone else's employed by this massive bureaucracy, does it not?

Mr. PAYNE. Yes; we are 100 percent federally funded. One hundred percent. So, yes, sir, we are—no one else pays except the Federal Government.

Mr. JONES. We might inject here that the leave we have accumulated, like sick and annual, we have done exactly at the same rate as is applicable under the Federal system.

Mr. HENDERSON. So the record will be clear, you refer to it in your testimony, your sick leave as a county employee is paid from appropriate Federal funds. It just comes out of another appropriation if you carried it with you into another department rather than from further appropriation from the Department of Agriculture if you stayed in that continued employment. Is that right?

Mr. PAYNE. That is correct.

Mr. HENDERSON. I thank the gentleman from Missouri.

Mr. TAYLOR. That is all, except to say I want to express my appreciation to the witnesses this morning. Certainly I have the highest regard for the employees in my district. They are good people, they are citizen-participants. Most of them are good citizens, they make a contribution to the communities in which they work and I feel sure they serve with a great deal of dedication in serving rural America and the communities in which they live.

Thank you.

Mr. HENDERSON. I do want to thank you for your appearance and invite you, if you see that you would like to file additional statements for the record, especially in response to the Department of Agriculture letter and Civil Service Commission letter that I referred to, feel free to contact our staff.

I will adjourn the subcommittee this morning, and will contact the members with regard to the question of whether we desire further hearings or communications from the Civil Service Commission; and what further action the members would like me to take with regard to the legislation before us.

Thank you, gentlemen.

Mr. JONES. Mr. Chairman, may I make one statement?

Mr. HENDERSON. Sure.

Mr. JONES. We are somewhat disappointed that probably the next time we appear before a hearing, that you have chosen not to be our chairman.

We certainly appreciate all your past favors and we wish you were coming back to be with us.

Mr. HENDERSON. I thank you very much.

It certainly has been my pleasure to have worked with you and your officers over the years.

Just as the gentleman from Missouri said, I think every Member of Congress who has a county ASCS office knows of the fine services

you have rendered. It is a bit unique, but I would hope—well, I won't be here, but I would hope in the future, as long as the farmers of this country desire to continue the program, that the ASCS programs will be administered in the manner they have been, and that the county employees will be employed as they have been because it is vital to the elected county committee process.

I have held my final statement for the benefit of all of you. Just before I came in this morning, your former boss, and my good friend Horace Godfrey called. He had hoped to be here this morning to attend, simply be in the audience to show his continuing interest in your welfare. I am sure that those of you who served when he was in the Department of Agriculture understand, as I do, his continued interest in the welfare and benefit of the employees and programs that you administer.

Thank you very much for being here this morning.

Mr. PAYNE. Thank you.

Mr. JONES. Thank you.

[Whereupon, at 11:05 a.m., the hearing of the subcommittee was adjourned.]

94TH CONGRESS
2D SESSION

H. R. 12361

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1976

Mr. HENDERSON introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8 (b) of the Soil Conservation and Domestic Allotment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) section 5334 (f) of title 5, United States Code, is amended by striking out "under the Department of Agriculture".

(b) The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

(c) Section 3502 (a) (C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 30 1976

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Suite 207 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to the Committee's request for the views of this Office on H.R. 12361, "To amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes."

The purpose of this bill is to broaden the coverage of the unique service-credit benefits P.L. 90-367 now provides former employees of Agricultural Stabilization and Conservation Committee (ASC) county offices who subsequently become employees of the Department of Agriculture. Under H.R. 12361, former ASC county office employees later employed by any Federal agency, not just the Department, would be entitled to longevity credit for non-Federal ASC service in determining their basic pay, annual leave accrual rate and retention standing in reductions-in-force.

In its report, the Civil Service Commission states a number of reasons for strongly opposing enactment of this bill. The Commission notes that it would afford former ASC employees special advantages over career Federal employees in reductions-in-force, and result in serious inequities in the earning of annual leave. We concur. It would be manifestly illogical and unfair to career employees in non-USDA agencies to allow others preferential treatment based on ASC service with unique ties only to the Department of Agriculture. It was that Department's special recruitment needs for ASC-experienced personnel which was the basis for P.L. 90-367. No such basis exists with respect to other departments and agencies.

Accordingly, for the reasons stated above and in the report of the Civil Service Commission, we strongly oppose enactment of H.R. 12361.

Sincerely,

(Signed) James M. Frey

James M. Frey
Assistant Director for
Legislative Reference

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D.C. 20515

July 30, 1976

Dear Mr. Chairman:

This letter is in response to your request for the Commission's views on H.R. 12361, "To amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes."

The Commission recommends against enactment of this bill.

The purpose of H.R. 12361 is to broaden the applicability of existing special benefits originally provided by Public Law 90-367, for former employees of county offices of the locally-elected non-Federal Agricultural Stabilization and Conservation Committees who are appointed to positions in the Federal Government. These special benefits include certain preferential treatment in setting pay upon appointment, transfer of accumulated sick and annual leave, receiving full credit for prior non-Federal county service in determining the rate of annual leave accrual and for reduction-in-force purposes. The extraordinary benefits, recognizing non-Federal service, now apply only when these former county committee employees are appointed in the Department of Agriculture. H.R. 12361 would extend such credit to their employment in any Federal agency. This would impose substantial unwarranted costs and result in considerable inequities as compared to benefits provided other employees brought into Federal service. It would also afford special advantages over those who have been career Federal employees, for example in a reduction-in-force. It would result in particularly serious inequities with respect to the earning of annual leave, inequities which would be a source of continuing dissatisfaction on the part of those employees whose prior non-Federal employment cannot be credited for leave purposes.

The intent of Congress in passing Public Law 90-367, permitting service credit for such purposes as setting pay and leave earning rates, was to strictly limit the provisions of that law to employment in the Department of Agriculture. The purpose of that legislation was to assist that department in its recruitment of experienced well-qualified persons serving in the Agricultural Stabilization and Conservation Committees county offices, and it was justified on the grounds it would have no adverse effect on any other department or agency of the government, inasmuch as such agencies had no such recruitment requirements. H.R. 12361 would be directly contrary to the express purposes of the earlier law.

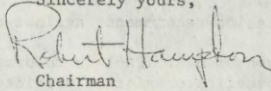
The Civil Service Commission has opposed prior legislative proposals similar to H.R. 12361, because they would have accorded preferential treatment not generally available to any other group. Because H.R. 12361 would make the special treatment afforded former county committee employees generally applicable to their employment throughout the Federal service, its enactment in our view would open the way for other non-Federal personnel working in programs interrelated to Federal programs, or in Federally assisted programs, to claim similar benefits.

For the foregoing reasons, the Civil Service Commission strongly opposes passage of H.R. 12361.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,


Chairman

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250
August 3, 1976

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives

Dear Mr. Chairman:

This is in reply to your request of March 18 for a report on H.R. 12361, a bill "To amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes."

This Department defers to the Civil Service Commission and the other agencies that would be affected by this bill.

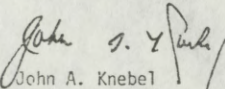
Current law provides that employees of non-Federal ASC county committees who are appointed to positions with the U.S. Department of Agriculture may transfer their accumulated annual and sick leave, may receive credit for their ASC county service for retention preference purposes, and may be appointed at a step of their grade higher than the first step provided that their new salary does not exceed their salary as an employee of an ASC county committee. The purpose of this bill is to extend these benefits to ASC county committee employees who are appointed to positions with federal agencies other than the U.S. Department of Agriculture.

While it may be unusual for leave and service time to be credited in one executive department of the Federal Government and not in all, there is a valid basis for limiting such credit to USDA employment. This restriction is based on this Department's unique requirements for personnel with ASC experience, a need that other agencies have not indicated they share. It may also be noted that by law, employees of an ASC county committee are covered under the Federal Retirement System and that such service time is already credited for retirement purposes when an ASC county committee employee is appointed to a position in another department or agency.

While we believe non-USDA agencies who appoint ASC county committee employees without a break in service would incur a negligible increase in their personnel costs, it is true that ASC employees could displace regular career employees in reductions-in-force in such agencies as a result of their added service credit.

The Office of Management and Budget advises that there is no objection to the presentation of this report, but that office joins with the Civil Service Commission in strongly opposing enactment of H.R. 12361.

Sincerely,


John A. Knebel
Under Secretary

REPORT OF THE

COMMISSIONER OF THE

LAND OFFICE

FOR THE YEAR 1900

ALBANY, N. Y., 1901

PRINTED BY THE

UNIVERSITY OF THE STATE OF NEW YORK

PRINTING OFFICE

The following report of the Commissioner of the Land Office for the year 1900, is published in accordance with the provisions of the Chapter 100 of the Laws of 1900, which provides that the Commissioner of the Land Office shall submit to the Governor a report of the operations of the office during the year, and that the same shall be printed and distributed to the members of the Legislature.

The report is divided into two parts, the first of which contains a general statement of the operations of the office during the year, and the second of which contains a detailed statement of the operations of the office during the year.

The first part of the report contains a general statement of the operations of the office during the year, and is divided into two sections, the first of which contains a statement of the operations of the office during the year, and the second of which contains a statement of the operations of the office during the year.

The second part of the report contains a detailed statement of the operations of the office during the year, and is divided into two sections, the first of which contains a statement of the operations of the office during the year, and the second of which contains a statement of the operations of the office during the year.

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