

THE FAIR REPRESENTATION ACT GIVES COMMUNITIES OF COLOR MORE POWER

Voting rights have long been at the forefront of the national conversation about democracy. Electoral method reforms have been increasingly suggested, and implemented, as a solution to violations of state and federal voting rights acts. For example, proportional ranked choice voting (RCV) has been used to protect the rights of voters of color in Albany, California and Eastpointe, Michigan.

The reforms in Eastpointe and Albany were wins for communities of color, but progress need not be limited to the local level. The Fair Representation Act (FRA) presents a comprehensive national solution that would give greater voice to voters of color. With multi-member districts and proportional RCV, all groups that reach a “threshold to elect” have the ability to elect a representative of their choice outright.

We typically measure whether a voting plan delivers fair representation in terms of “power to elect.” That is, does the plan ensure a group can consistently elect its preferred candidate(s)? For example, in a district with five representatives using proportional RCV, any group of voters constituting at least 17% of the electorate has the power to elect a candidate of its choice. If this group votes cohesively, it is guaranteed to win a seat. Even if group members don’t vote cohesively as a bloc, the election cannot be decided without that 17% having had a say. This is in direct contrast to single-winner districts, where if a group of voters constitutes less than 50% of the population, a candidate could theoretically win without a single vote from that group.

FairVote created hypothetical district maps showing what each state could look like under the Fair Representation Act. We project that under the FRA, Black voters would have power-to-elect in 26% of congressional districts (compared to 5% now), Asian American voters in 6% of districts (compared to less than 1% now), and Hispanic or Latino voters in 22% of districts (compared to 6% now).

Consider the hypothetical California District 4, located mostly south of Los Angeles,

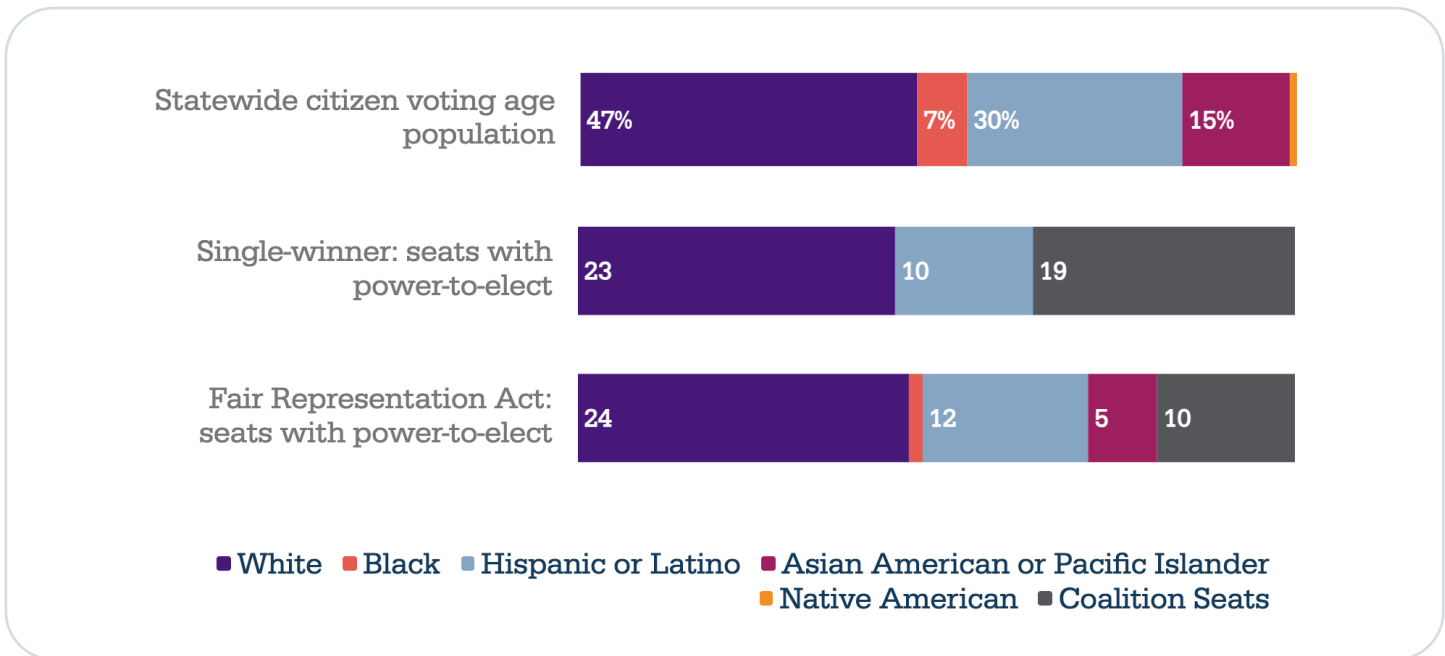


created under the FRA. White voters, Hispanic or Latino voters, and Asian American voters are all over the threshold to elect at least one seat in this five-seat district. The FRA would end the kind of winner-take-all politics that currently limits the ability of multiple racial groups to earn representation in that area.

Fair Representation Act: California District 4

	White	Black	Hispanic Latino	Asian American and Pacific Islander	Native American
Share of voting age population	58%	3%	21%	17%	1%
Seats with "power to elect" (out of 5)	3	0	1	1	0

Racial representation in California



Importantly, communities of color would be unlikely to lose the representatives they currently elect as a result of lower election thresholds. For example, Rep. James Clyburn currently represents South Carolina District 6. Rep. Clyburn is the first African American to serve as majority whip multiple times. South Carolina has no majority-Black districts, but District 6 is plurality-Black (meaning African Americans are the largest racial group, at 49%, but no group comprises a majority). In our FRA

sample map, SC-06 would mostly be part of a larger, multi-member South Carolina District 2. Black voters are over the threshold to elect in this FRA district, meaning they have power to fill at least one seat with a candidate of their choice. In addition, Black voters would gain voting power in South Carolina District 1, where they would now be over the threshold, most likely leading to an additional representative from South Carolina chosen by Black voters.

But how do we measure power for a group that falls below the threshold to elect? To explore this question, let's consider three examples.

▶ EXAMPLE 1: SOUTHERN CALIFORNIA UNDER THE FRA

Fair Representation Act: California District 5

	White	Black	Hispanic or Latino	Asian American and Pacific Islander	Native American
Share of voting age population	43%	8%	38%	9%	1%
Seats with "power to elect" (out of 5)	2	0	2	0	0

In our hypothetical California District 5, only two groups exceed the 17% threshold on their own. White and Hispanic or Latino voters both exceed the threshold twice and would probably be able to fill two seats each.

Where does the fifth seat go? This is what we call a "coalition seat" – a seat where no individual racial group is over the threshold alone. Black voters and Asian American voters make up 8% and 9% of the district respectively, or roughly half of the 17% threshold each.

In a single-winner district, a group which commands 8% of the vote has very little power. Campaigns will target groups or coalitions that command a larger share of the vote. However, under the FRA, a group comprising 8% of the electorate can earn a candidate half of the votes they need to win. All of a sudden, these smaller communities wield considerable power.

Los Angeles in California District 1 under the FRA

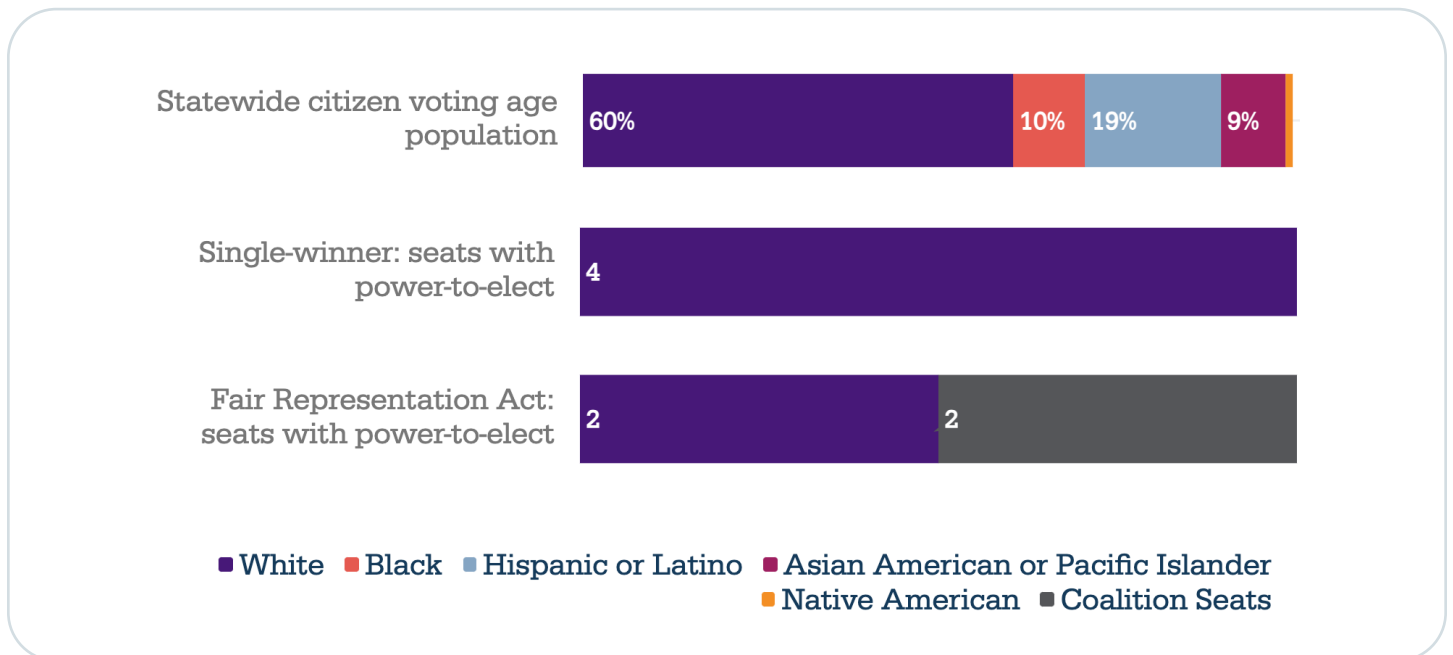
In FairVote's sample FRA map for California, the new District 1 includes much of Los

Angeles County. In that five-member district, we project that Black voters, Hispanic or Latino voters, and White voters would all have the power to elect at least one seat. Because those racial or ethnic groups are all above the 17% threshold, there is room for representation for each. In diverse areas like Los Angeles County, the FRA allows for true multi-racial representation, giving each group a seat at the table.

Compare this to the six single-member districts that currently represent Los Angeles County. Hispanic or Latino voters have power to elect in the 34th, 38th, and 42nd Districts, and White voters have power to elect in the 30th District, but Black voters do not have power to elect in any district (The 27th and 28th Districts are coalition seats).

▶ EXAMPLE 2: NEVADA’S FOUR SEATS

For a statewide example, consider Nevada.



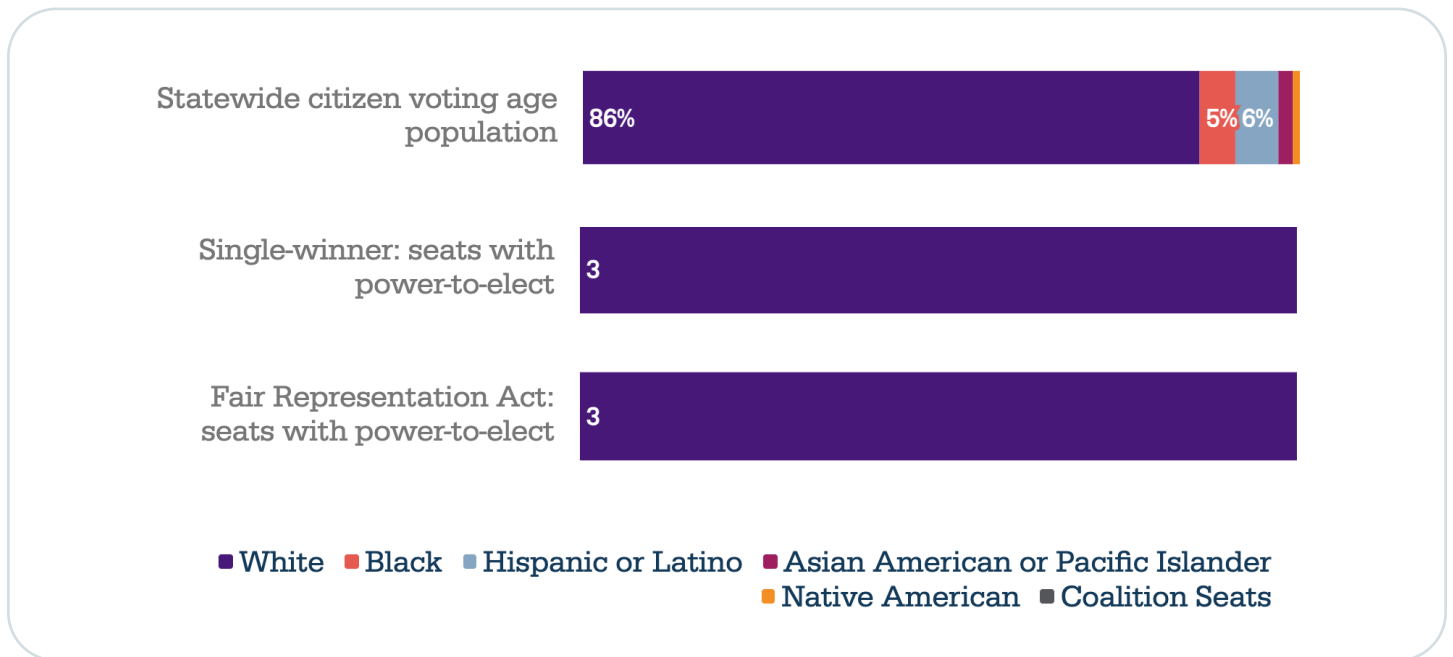
Nevada currently has four single-member districts. No minority racial group crosses the 50% threshold in any of these districts, despite these groups comprising 40% of the population combined. Under the FRA, Nevada voters would elect all four of their representatives statewide using proportional ranked choice voting. With this setup, any group with 20% of the vote can elect a candidate of its choice. However, no one minority racial group in Nevada currently reaches the threshold alone.

Because of this, we consider Nevada to have two coalition seats, which would provide opportunities for coalition-building. Candidates would be incentivized to make cross-racial appeals, since they could not get elected with one group’s support alone. In these seats, candidates need support from at least some (if not many) voters of color, whereas in theory, they previously needed none.

For example, 19% of Nevada’s population is Hispanic or Latino, just under the 20% threshold to elect. If Hispanic or Latino voters were to vote cohesively, they would be near the threshold to elect a candidate of their choice, but not quite there. However, only 1% of the non-Hispanic or Latino population needs to vote with the Hispanic or Latino community in order for them to have deciding power over a seat. At least some degree of crossover support is present in almost all elections nationally; when a certain community of color is under the threshold to elect, it sometimes takes only a small number of other voters willing to support the same candidate as that community to push that group over the threshold. Compare this to the status quo in single-member districts, where a group comprising 19% of the electorate would be nowhere near the threshold to choose its own candidate. Notably, in a single-member district, a small degree of crossover from White voters is often not enough to support candidates preferred by voters of color. However, with the FRA’s lower threshold, a small amount of crossover can make a large difference.

▶ EXAMPLE 3: NEBRASKA’S THREE SEATS

For our third example, we consider the impact of the Fair Representation Act on Nebraska, a state where White voters are a large enough share of the electorate to probably elect every seat. Even here, the Fair Representation Act makes a positive impact by enhancing the ability of communities of color to have more influence on who is elected.



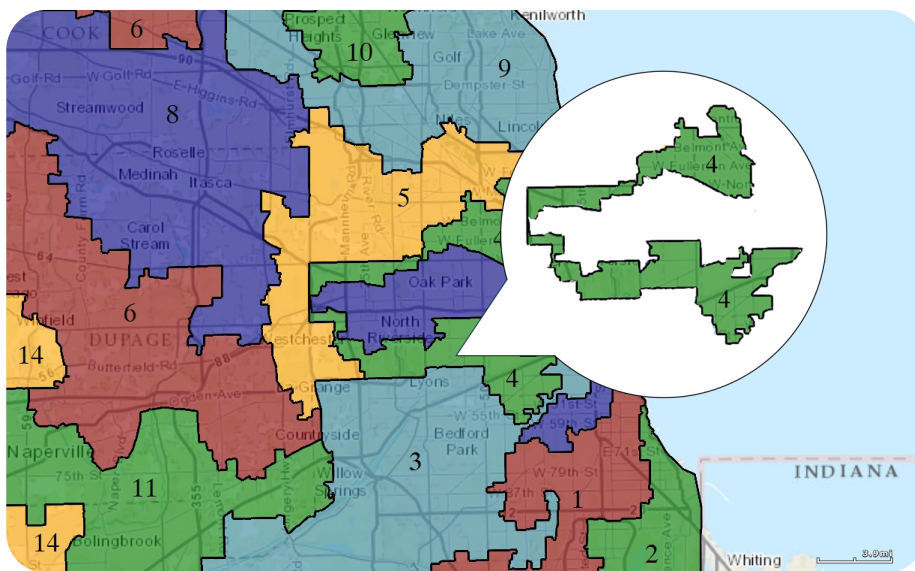
In Nebraska, all voters of color combined make up roughly 14% of the voting population. Under Nebraska’s current three single-winner districts, voters of color only constitute a small fraction (10-20%) of the 50% needed to win a seat.

Under the Fair Representation Act, Nebraska's three representatives would be elected at-large. Now that 14% would be more than half the share of votes to win a seat, meaning voters of color would constitute a substantial voting block. Campaigns have a much greater incentive to include communities of color in their outreach and platforms when communities of color can deliver half of the votes needed to win. Even in states with a large White majority, the math of the Fair Representation Act still increases voting power for communities of color.

► ANALYSIS: SINGLE-MEMBER DISTRICTS VS. PROPORTIONAL REPRESENTATION

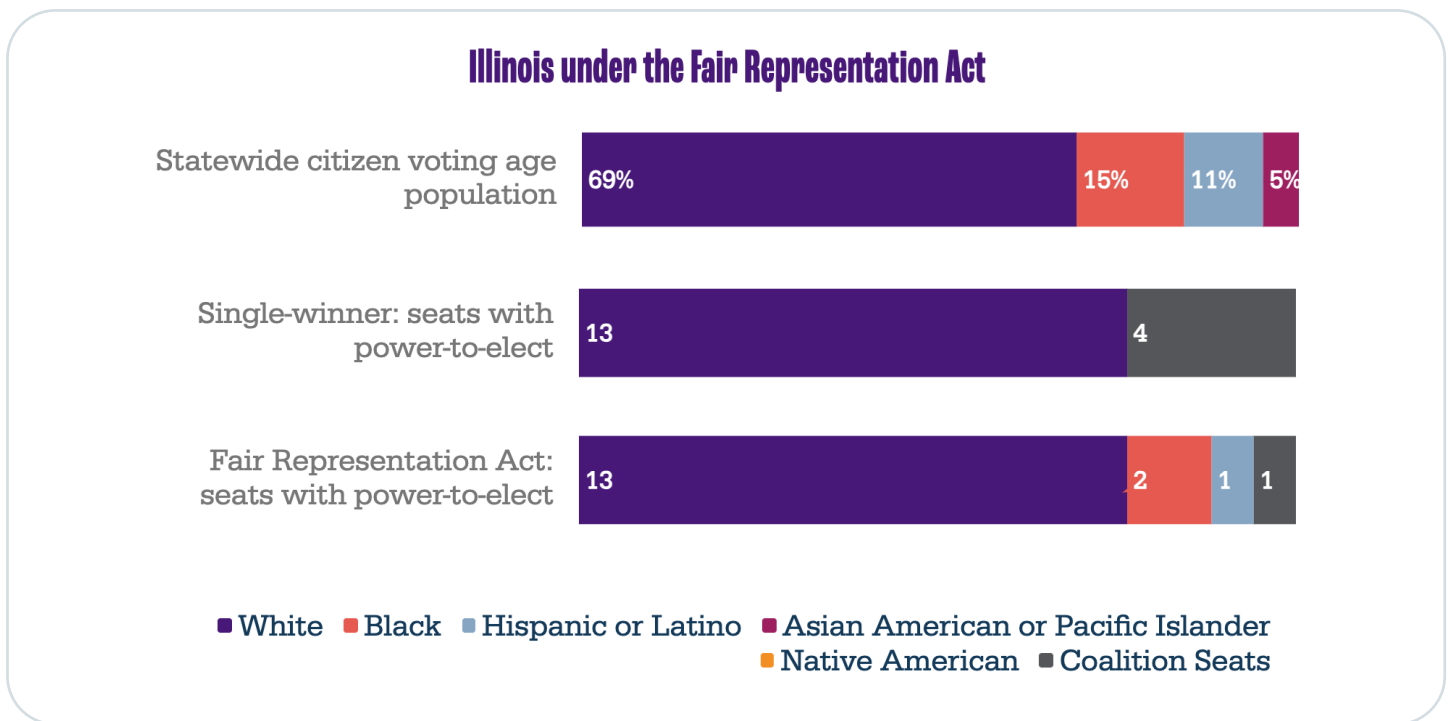
Sometimes, single-member districts work well for communities of color. If a racial group comprises over 50% of a district's population, that group has power to elect a representative of its choice. This is commonly known as a "majority-minority district." A coalition seat is also typically considered a majority-minority district.

Majority-minority districts are relatively easy to create if communities of color are geographically compact (segregated). But in much of the country, communities of color are not geographically compact. In those places, creating majority-minority districts is not so easy – and may not be possible at all. In many more places, those districts are only possible if mapmakers decide to prioritize racial equity above all other considerations – such as partisan interests, class divides, and keeping certain neighborhoods together. If those other interests outweigh a mapmaker's support of racial equity – and they often do – then those mapmakers will not create those majority-minority districts. When mapmakers in desegregated areas do decide to prioritize fair racial representation, they have to get creative with their district-drawing.



Take Illinois District 4, for example. For the past several redistricting cycles, IL-04 has been one of the strangest-shaped districts. This shape was created to put two majority-Hispanic or Latino parts of Chicago into the same district, and for a while, it succeeded. IL-04 had been a majority-Hispanic or Latino district since the 1990s, formerly represented by Luis Gutiérrez and now by Jesús “Chuy” García. However, with the new maps following the 2020 census, the Hispanic or Latino community no longer comprises the majority of IL-04 – no individual racial or ethnic group does, making it a coalition seat. At present, Hispanic and Latino voters have no sole power to elect in Illinois.

With the FRA, we project that Hispanic or Latino voters would have power to elect in Illinois District 5 – an area that overlaps with the existing District 4.



With single-member districts, attaining fair representation often requires making a deliberate choice to prioritize equity when drawing districts. This requires a great amount of faith in mapmakers, whose intentions may not always be pure. For example, in states where legislators draw maps, they may be more interested in their re-election prospects than racial fairness.

The ability to draw fair single-member districts for communities of color also relies on continued support from the courts, which is not guaranteed. For example, in March 2024, the Supreme Court upheld a South Carolina congressional map that lower federal courts found discriminatory to Black voters (*Alexander v. South Carolina NAACP*).

With proportional representation as outlined in the FRA, racial groups have voting

power in proportion to their share of the vote, no matter how you draw the lines. Communities of color do not need to place their faith in mapmakers or judges. The Fair Representation Act would deliver consistent representation for communities of color, whereas single-member districts can be unpredictable over the long term.

Additionally, because single-member districts often pack racial groups together, they often miss an opportunity for cross-racial coalitions that larger, multi-member districts can provide. As voting rights scholar Lani Guinier once expressed,

“[I]n order to create majority-Black districts, racially homogeneous White districts are also created on the assumption that White voters are a racially undifferentiated mass. The result often is that moderate White voters are submerged in the resulting majority-White district, separate from Blacks who would form coalitions with them but for [single-member districting]. Thus, districting limits the options of White, as well as Black, voters.”



► CONCLUSION: MORE POWER FOR VOTERS OF COLOR UNDER THE FRA, REGARDLESS OF WHETHER THEY'RE IN THE MAJORITY

We often hear pundits make comments like “X candidate has the Black vote” or “Y candidate has the Latino vote.” We know that in real life, voters are multidimensional, and communities of color do not act as monolithic voting blocs. Voters in every racial group have diverse interests and priorities, many of which intersect. The FRA would allow cross-racial coalitions to be forged organically based on underlying shared interests, while simultaneously protecting the ability of cohesive racial and ethnic groups to elect their candidates of choice. Representatives would be rewarded by pushing forward policies that appeal broadly to their constituents.

Under the FRA, voters of color would have more voting power, whether or not their racial or ethnic group exceeds a “threshold to elect.” The FRA could be the key to advancing and enhancing representation.

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