

By: Simpson, Barnett (116th)

To: Ways and Means

HOUSE BILL NO. 1336

1 AN ACT TO AMEND SECTIONS 21-33-45, 27-39-307, 27-39-317,
2 27-39-320 AND 27-39-321, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
3 IF BECAUSE OF AN INCREASE IN THE ASSESSED VALUATION OF A
4 MUNICIPALITY OR COUNTY THE AD VALOREM TAX MILLAGE RATE FOR THE
5 EXISTING FISCAL YEAR WILL GENERATE FUNDS FOR THE NEXT FISCAL YEAR
6 IN EXCESS OF THAT GENERATED FOR THE EXISTING FISCAL YEAR, THEN FOR
7 PURPOSES OF DETERMINING WHETHER THE RATE OR LEVY PROPOSED FOR THE
8 NEXT FISCAL YEAR IS AN INCREASE FROM THE PREVIOUS YEAR, THE
9 GOVERNING AUTHORITIES OF THE MUNICIPALITY OR BOARD OF SUPERVISORS
10 OF THE COUNTY SHALL REDUCE THE AD VALOREM TAX MILLAGE RATE BY THE
11 NECESSARY AMOUNT TO PROVIDE THAT THE REVENUE GENERATED FOR THE
12 NEXT FISCAL YEAR IS THE SAME AS THAT GENERATED FOR THE EXISTING
13 FISCAL YEAR AND USE SUCH REDUCED MILLAGE RATE AS THE BASIS TO
14 DETERMINE WHETHER THE RATE OR LEVY PROPOSED FOR THE NEXT FISCAL
15 YEAR IS AN INCREASE FROM THE PREVIOUS YEAR AND TO DETERMINE
16 WHETHER ANY PROPOSED INCREASE IN REVENUE FOR THE NEXT FISCAL YEAR
17 COMPLIES WITH CERTAIN LIMITATIONS ON AD VALOREM TAX REVENUE
18 INCREASES; AND FOR RELATED PURPOSES.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

21 SECTION 1. Section 21-33-45, Mississippi Code of 1972, is
22 amended as follows:[LH1]

23 21-33-45. The governing authorities of each municipality of
24 this state shall, either at their regular meeting in September of
25 each year or not later than ten (10) days after the final approval
26 of the assessment rolls, levy the municipal ad valorem taxes for
27 the fiscal year next succeeding, and shall, by resolution, fix the
28 tax rate or levy for the municipality and for any other taxing
29 districts of which the municipality may be a part. The rates or
30 levies for the municipality or for any such taxing district shall
31 be expressed in mills or a decimal fraction of a mill, which tax
32 rates, or levies, shall determine the ad valorem taxes to be
33 collected upon each dollar of valuation upon the assessment rolls
34 of the municipality for municipal taxes, and to be collected upon
35 each dollar of valuation as shown upon the assessment rolls of the

36 municipality for each such taxing district, except as to such
37 values as may be exempt, in whole or in part, from certain tax
38 rates or levies. If, because of an increase in the assessed
39 valuation of a municipality, the ad valorem tax millage rate for
40 the existing fiscal year will generate revenue for the next fiscal
41 year in excess of that generated for the existing fiscal year,
42 then for purposes of determining whether the rate or levy proposed
43 for the next fiscal year is an increase from the previous fiscal
44 year, the governing authorities of the municipality shall (a)
45 reduce the ad valorem tax millage rate by the necessary amount to
46 provide that the revenue generated for the next fiscal year is the
47 same as that generated for the existing fiscal year and (b) use
48 such reduced millage rate as the basis to determine whether the
49 rate or levy proposed for the next fiscal year is an increase from
50 the previous fiscal year. If the rates or levies for the
51 municipality or taxing district are an increase from the previous
52 fiscal year, then the proposed rate or levy increase shall be
53 advertised in accordance with Sections 27-39-203 and 27-39-205.

54 In making the levy of taxes, the governing authorities shall
55 specify in such resolution the levy for each purpose as follows:

56 (a) For general revenue purposes and for general
57 improvements, as authorized by Section 27-39-307.

58 (b) For school purposes, including all maintenance
59 levies, whether made against the property within such
60 municipality, or within any taxing district embraced in such
61 municipality, as authorized by Section 27-39-307 and Section
62 37-57-3 et seq.

63 (c) For municipal bonds and interest thereon, for
64 school bonds and interest thereon, separately for municipal-wide
65 bonds and for the bonds of each school district.

66 (d) For municipal-wide bonds and interest thereon,
67 other than for school bonds.

68 (e) For loans, notes or any other obligation, and the
69 interest thereon, if permitted by law.

70 (f) For special improvement or special benefit levies,
71 as now authorized by law.

72 (g) For any other purpose for which a levy is lawfully
73 made. If any municipal-wide levy is made for any general or
74 special purpose under the provisions of any law other than Section
75 27-39-307 each such levy shall be separately stated in the
76 resolution, and the law authorizing same shall be expressly stated
77 therein.

78 If the governing authorities of any municipality shall not
79 levy the municipal taxes and the district taxes at its regular
80 September meeting, such governing authorities shall levy the same
81 at an adjourned or special meeting not later than ten (10) days
82 after the final approval of the assessment rolls. However, that
83 if such levy be not made on or before September 15 then road and
84 bridge privilege tax license plates may be issued by the tax
85 collector or State Tax Commission, as the case may be, for motor
86 vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of
87 1958 (Section 27-51-1 et seq.), without collecting or requiring
88 proof of payment of municipal ad valorem taxes until such levy is
89 duly certified to him, and for twenty-four (24) hours thereafter.

90 In the case of a municipality operating under a special or
91 private charter providing for or authorizing the assessment,
92 levying and collection of ad valorem taxes prior to October in
93 each year, ad valorem taxes for such municipality shall be levied
94 at the time prescribed or authorized by such special or private
95 charter, unless the governing authority of such municipality by
96 resolution adopted and spread of record in its minutes elect to
97 levy ad valorem taxes at the time prescribed hereinbefore in this
98 section. In any event, however, all ad valorem taxes levied by
99 any municipality in this state, shall be levied in the manner
100 required herein regardless of the time when such taxes are levied.

101 SECTION 2. Section 27-39-307, Mississippi Code of 1972, is
102 amended as follows:[LH2]

103 27-39-307. Municipalities may levy ad valorem taxes upon all
104 taxable property within such municipality for general revenue
105 purposes and for general improvements. Further, the governing
106 authorities of any municipality may make additional levies for
107 special purposes as authorized by law. If, because of an increase
108 in the assessed valuation of a municipality, the ad valorem tax
109 millage rate for the existing fiscal year will generate revenue
110 for the next fiscal year in excess of that generated for the
111 existing fiscal year, then for purposes of determining whether the
112 rate or levy proposed for the next fiscal year is an increase from
113 the previous fiscal year, the governing authorities of the
114 municipality shall (a) reduce the ad valorem tax millage rate by
115 the necessary amount to provide that the revenue generated for the
116 next fiscal year is the same as that generated for the existing
117 fiscal year and (b) use such reduced millage rate as the basis to
118 determine whether the rate or levy proposed for the next fiscal
119 year is an increase from the previous fiscal year. Any such levy
120 which is an increase from the previous fiscal year must be
121 advertised in accordance with Sections 27-39-203 and 27-39-205.
122 In addition to funding municipal general purposes, the municipal
123 general ad valorem tax levy may be used to supplement any
124 municipal ad valorem tax levy for a special purpose authorized by
125 law, excluding levies for schools, without regard to any statutory
126 millage limitation on such special purpose tax levy; however,
127 nothing herein contained shall be construed to exempt such tax
128 levies from the limitation on total receipts under Section
129 27-39-321.

130 SECTION 3. Section 27-39-317, Mississippi Code of 1972, is
131 amended as follows:[LH3]

132 27-39-317. The board of supervisors of each county shall, at
133 its regular meeting in September of each year, levy the county ad

134 valorem taxes for the fiscal year, and shall, by order, fix the
135 tax rate, or levy, for the county, for the road districts, if any,
136 and for the school districts, if any, and for any other taxing
137 districts; and the rates, or levies, for the county and for any
138 district shall be expressed in mills or a decimal fraction of a
139 mill. Said tax rates, or levies, shall determine the ad valorem
140 taxes to be collected upon each dollar of valuation, upon the
141 assessment rolls of the county, including the assessment of motor
142 vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of
143 1958, Section 27-51-1 et seq., for county taxes; and upon each
144 dollar of valuation for the respective districts, as shown upon
145 the assessment rolls of the county, including the assessment of
146 motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law
147 of 1958, Section 27-51-1 et seq.; except as to such values as
148 shall be exempt, in whole or in part, from certain tax rates or
149 levies. If, because of an increase in the assessed valuation of a
150 county, the ad valorem tax millage rate for the existing fiscal
151 year will generate revenue for the next fiscal year in excess of
152 that generated for the existing fiscal year, then for purposes of
153 determining whether the rate or levy proposed for the next fiscal
154 year is an increase from the previous fiscal year, the board of
155 supervisors of the county shall (a) reduce the ad valorem tax
156 millage rate by the necessary amount to provide that the revenue
157 generated for the next fiscal year is the same as that generated
158 for the existing fiscal year and (b) use such reduced millage rate
159 as the basis to determine whether the rate or levy proposed for
160 the next fiscal year is an increase from the previous fiscal year.
161 _If the rate or levy for the county is an increase from the
162 previous fiscal year, then the proposed rate or levy shall be
163 advertised in accordance with Sections 27-39-203 and 27-39-205.
164 If the board of supervisors of any county shall not levy the
165 county taxes and the district taxes at its regular September
166 meeting, the board shall levy the same on or before September 15

167 at an adjourned or special meeting, or thereafter, provided,
168 however, that if such levy be not made on or before the fifteenth
169 day of September then the tax collector or State Tax Commission
170 may issue road and bridge privilege tax license plates for motor
171 vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of
172 1958, Section 27-51-1 et seq., without collecting or requiring
173 proof of payment of county ad valorem taxes, and may continue to
174 so issue such plates until such levy is duly certified to him, and
175 for twenty-four (24) hours thereafter.

176 Notwithstanding the requirements of this section, in the
177 event the State Tax Commission orders the county to make an
178 adjustment to the tax roll pursuant to Section 27-35-113, the
179 county shall have a period of thirty (30) days from the date of
180 the commission's final determination to adjust the millage in
181 order to collect the same dollar amount of taxes as originally
182 levied by the board.

183 In making the levy of taxes, the board of supervisors shall
184 specify, in its order, the levy for each purpose, as follows:

185 (a) For general county purposes (current expense and
186 maintenance taxes), as authorized by Section 27-39-303.

187 (b) For roads and bridges, as authorized by Section
188 27-39-305.

189 (c) For schools, including the countywide minimum
190 education program levy and the levy for each school district
191 including special municipal separate school districts, but not
192 including other municipal separate school districts, and for an
193 agricultural high school, county high school or junior college
194 (current expense and maintenance taxes), as authorized by Chapter
195 57, Title 37, Mississippi Code of 1972, and any other applicable
196 statute. The levy for schools shall apply to the assessed value
197 of property in the respective school districts, including special
198 municipal separate school districts, but not including other
199 municipal separate school districts, and a distinct and separate

200 levy shall be made for each school district, and the purpose for
201 each levy shall be stated.

202 (d) For road bonds and the interest thereon, separately
203 for countywide bonds and for the bonds of each road district.

204 (e) For school bonds and the interest thereon,
205 separately for countywide bonds and for the bonds of each school
206 district.

207 (f) For countywide bonds, and the interest thereon,
208 other than for road bonds and school bonds.

209 (g) For loans, notes or any other obligation, and the
210 interest thereon, if permitted by the law.

211 (h) For any other purpose for which a levy is lawfully
212 made.

213 The order shall state all of the purposes for which the
214 general county levy is made, using the administrative items
215 suggested by the State Department of Audit of Mississippi under
216 the county budget law in its uniform system of accounts for
217 counties, but the rate or levy for any item or purpose need not be
218 shown; and if a countywide levy is made for any general or special
219 purpose under the provisions of any law other than Section
220 27-39-303, each such levy shall be separately stated.

221 During the month of February of each year, if the order or
222 resolution of the board of trustees of any school district of said
223 county or partly in said county, is filed with it requesting the
224 levying of ad valorem taxes for the support and maintenance of
225 such school district for the following fiscal year, then the board
226 of supervisors of every such county in the state shall notify, in
227 writing, within thirty (30) days, the county superintendent of
228 education of such county, the levy or levies it intends to make
229 for the support and maintenance of such school districts of such
230 county at its regular meeting in September following, and the
231 county superintendent of education and the trustees of all such
232 school districts shall be authorized to use such expressed

233 intention of the board of supervisors in computing the support and
234 maintenance budget or budgets of such school district or districts
235 for the ensuing fiscal school year.

236 SECTION 4. Section 27-39-320, Mississippi Code of 1972, is
237 amended as follows:[LH4]

238 27-39-320. (1) The Legislature finds and determines that
239 legislation requiring a specific levy or requiring consent of some
240 other governing body to reduce the levy was intended to raise a
241 certain amount of revenue for specific purposes. Upon this
242 determination and notwithstanding the provisions of any statute
243 which requires a definite levy to be made or which requires that a
244 levy may not be reduced except by the consent of some other
245 governing authority, the amount of such levy shall be deemed to be
246 an amount necessary to produce the revenues received in the next
247 preceding year plus, at the option of the taxing authority, an
248 increase not to exceed ten percent (10%) of such revenues.

249 (2) In any county where there is located a nuclear
250 generating power plant on which a tax is assessed under Section
251 27-35-309(3), such required levy and revenue produced thereby may
252 be reduced by the levying authority in an amount in proportion to
253 a reduction in the base revenue of any such county from the
254 previous year. Such reduction shall be allowed only if the
255 reduction in base revenue equals or exceeds five percent (5%).
256 "Base revenue" shall mean the revenue received by the county from
257 the ad valorem tax levy plus the revenue received by the county
258 from the tax assessed under Section 27-35-309(3) and authorized to
259 be used for any purposes for which a county is authorized by law
260 to levy an ad valorem tax. For purposes of determining if the
261 reduction equals or exceeds five percent (5%), a levy of millage
262 equal to the prior year's millage shall be hypothetically applied
263 to the current year's ad valorem tax base to determine the amount
264 of revenue to be generated from the ad valorem tax levy. For the
265 purposes of this section, the portion of base revenue used to fund

266 the purpose for which a specific levy is required shall be deemed
267 to be the total receipts from ad valorem taxes for such purpose.
268 This paragraph shall apply to taxes levied for the 1987 fiscal
269 year and for each fiscal year thereafter. If the Mississippi
270 Supreme Court or another court finally adjudicates that the tax
271 levied under Section 27-35-309(3) is unconstitutional, then this
272 paragraph shall stand repealed.

273 (3) With respect to ad valorem taxes levied on or after
274 October 1, 1980, no county or municipality shall levy those mills
275 heretofore required by law to be levied to an extent that such
276 levy shall produce more than the total receipts produced from such
277 levy in the next preceding year, plus, at the option of the taxing
278 authority, an increase not to exceed ten percent (10%) of such
279 receipts. Such total receipts shall be deemed to include the
280 total avails of such levy either collected from the property owner
281 or by reimbursement by the state. The revenues produced from any
282 newly constructed properties or any existing properties added to
283 the tax rolls or any properties previously exempt which were not
284 assessed in the next preceding year may be excluded from the
285 limitation set forth herein.

286 (4) The ten percent (10%) increase limitation prescribed in
287 this section may be increased by an additional amount by the board
288 of supervisors of any county if the aggregate receipts from all
289 county levies to which this section and Sections 27-39-305 and
290 27-39-321 apply do not exceed one hundred ten percent (110%) of
291 the aggregate receipts from all such levies during any one (1) of
292 the immediately preceding three (3) fiscal years, as determined by
293 the board of supervisors.

294 (5) The limitations set forth in this section shall apply to
295 the mandatory tax levied by Section 27-39-329.

296 (6) If, because of an increase in the assessed valuation of
297 a county or municipality, the ad valorem tax millage rate for the
298 existing fiscal year will generate revenue for the next fiscal

299 year in excess of that generated for the existing fiscal year,
300 then for purposes of determining whether any proposed increase in
301 receipts for the next fiscal year is within the limitations
302 provided in this section, the board of supervisors of the county
303 or governing authorities of the municipality shall (a) reduce the
304 ad valorem tax millage rate by the necessary amount to provide
305 that the total receipts generated for the next fiscal year is the
306 same as that generated for the existing fiscal year and (b) use
307 such reduced millage rate as the basis to determine whether any
308 proposed increase in receipts for the next fiscal year is within
309 the limitations provided in this section.

310 SECTION 5. Section 27-39-321, Mississippi Code of 1972, is
311 amended as follows:[LH5]

312 27-39-321. (1) With respect to ad valorem taxes levied for
313 each fiscal year, no political subdivision may levy ad valorem
314 taxes in any fiscal year which would render in total receipts from
315 all levies an amount more than the receipts from that source
316 during any one (1) of the immediately preceding three (3) fiscal
317 years, as determined by the levying governing authority, plus, at
318 the option of the taxing authority, an increase not to exceed ten
319 percent (10%) of such receipts. The additional revenue from the
320 ad valorem tax on any newly constructed properties or any existing
321 properties added to the tax rolls or any properties previously
322 exempt, which were not assessed in the next preceding year and
323 cost incurred and paid in the next preceding year in connection
324 with reappraisal may be excluded from the ten percent (10%)
325 increase limitation set forth herein. Taxes levied for school
326 district purposes under any statute and taxes levied for the
327 maintenance and/or construction of roads and bridges under Section
328 27-39-305 shall be excluded from the ten percent (10%) increase
329 limitation set forth herein. Taxes levied for payment of
330 principal of and interest on general obligation bonds issued
331 heretofore or hereafter shall be excluded from the ten percent

332 (10%) increase limitation set forth herein. Any additional
333 millage levied to fund any new program mandated by the Legislature
334 shall be excluded from the limitation for the first year of the
335 levy and included within such limitation in any year thereafter.
336 The limitation imposed under this paragraph shall not apply to
337 those mandatory levies enumerated in Sections 27-39-320 and
338 27-39-329.

339 (2) The limitation of this section may be increased only as
340 provided in subsection (3) or (4) of this section or when the
341 governing body of a political subdivision has determined the need
342 for additional revenues, adopts a resolution declaring its
343 intention so to do and has held an election on the question of
344 raising the limitation prescribed in this section. The notice
345 calling for an election shall state the purposes for which the
346 additional revenues shall be used, the amount of the tax levy to
347 be imposed for such purposes and period of time for which such tax
348 levy shall be made; however, such tax levy shall not be made for
349 more than five (5) successive years. The limitation may be
350 increased under this subsection only if the proposed increase is
351 approved by a majority of those voting. Subject to specific
352 provisions of this paragraph to the contrary, the publication of
353 notice and manner of holding the election shall be as prescribed
354 by law for the holding of elections for the issuance of bonds by
355 the political subdivision. Revenues derived from any taxes levied
356 pursuant to such election shall be excluded from the tax base for
357 the purpose of determining aggregate receipts for which the ten
358 percent (10%) increase limitation applies.

359 (3) As an alternative to the procedure provided in
360 subsection (2) of this section, the ten percent (10%) increase
361 limitation prescribed in this section may be increased by an
362 additional amount by the board of supervisors of any county
363 without an election thereon if the aggregate receipts from all
364 county levies to which this section and Sections 27-39-305 and

365 27-39-320 apply do not exceed one hundred ten percent (110%) of
366 the aggregate receipts from all such levies during any one (1) of
367 the immediately preceding three (3) fiscal years, as determined by
368 the board of supervisors.

369 (4) As an alternative to the procedure provided in
370 subsections (2) and (3) of this section, the board of supervisors
371 of any county or the governing authorities of any municipality
372 may, without an election thereon, increase the ad valorem tax levy
373 to which this section applies by the greater of:

374 (a) An ad valorem tax levy that does not result in an
375 aggregate levy to which this section applies in excess of twenty
376 (20) mills; or

377 (b) An ad valorem tax levy that is not in excess of any
378 aggregate levy to which this section applies in any one (1) of the
379 immediately preceding ten (10) fiscal years.

380 (5) In any county where there is located a nuclear
381 generating power plant on which a tax is assessed under Section
382 27-35-309(3), the term "total receipts" as used in this section
383 shall be the portion of the "base revenue" as defined in Section
384 27-39-320 which is used for General Fund purposes.

385 (6) If a shortfall occurs in revenues from sources other
386 than ad valorem taxes and oil and gas severance taxes budgeted for
387 the county or municipal general fund during the 1987 fiscal year,
388 then the county or municipality, as the case may be, may levy a
389 special ad valorem tax for the 1988 fiscal year in an amount the
390 avails of which shall not exceed such shortfall; provided,
391 however, that the aggregate receipts from all ad valorem levies
392 for the county or municipal general fund for the 1988 fiscal year
393 shall not exceed the aggregate receipts from this source for the
394 immediately preceding fiscal year plus an increase not to exceed
395 twenty percent (20%).

396 (7) If a shortfall occurs in revenues from oil and gas
397 severance taxes budgeted for the county or municipal general fund

398 during the 1987 fiscal year, then the county or municipality, as
399 the case may be, may levy a special ad valorem tax for the 1988
400 fiscal year in an amount the avails of which shall not exceed such
401 shortfall. The avails of such special ad valorem tax shall not be
402 included within the ten percent (10%) increase limitation. The ad
403 valorem taxes levied to offset the shortfall shall be deemed to be
404 ad valorem tax receipts produced in the 1988 fiscal year for the
405 purposes of determining the limitation on receipts for the
406 succeeding fiscal years.

407 (8) If, because of an increase in the assessed valuation of
408 a county or municipality, the ad valorem tax millage rate for the
409 existing fiscal year will generate revenue for the next fiscal
410 year in excess of that generated for the existing fiscal year,
411 then for purposes of determining whether any proposed increase in
412 receipts for the next fiscal year is within the limitations
413 provided in this section, the board of supervisors of the county
414 or governing authorities of the municipality shall (a) reduce the
415 ad valorem tax millage rate by the necessary amount to provide
416 that the total receipts generated for the next fiscal year is the
417 same as that generated for the existing fiscal year and (b) use
418 such reduced millage rate as the basis to determine whether any
419 proposed increase in receipts for the next fiscal year is within
420 the limitations provided in this section.

421 SECTION 6. This act shall take effect and be in force from
422 and after July 1, 2000.