

By: Senator(s) Harden

To: Education; Finance

SENATE BILL NO. 2473

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT ANY CHARGES BY COUNTY OR CITY TAXING AUTHORITIES
3 TO LOCAL SCHOOL BOARDS FOR COLLECTION OF TAXES SHALL BE ASSESSED
4 AND COLLECTED AS A SEPARATE LEVY AND EXCLUDED FROM THE 55-MILL CAP
5 ON THE OPERATIONAL LEVY FOR SCHOOL DISTRICTS; AND FOR RELATED
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 37-57-104, Mississippi Code of 1972, is
9 amended as follows:

10 37-57-104. (1) Each school board shall submit to the
11 levying authority for the school district a certified copy of an
12 order adopted by the school board requesting an ad valorem tax
13 effort in dollars for the support of the school district. The
14 copy of the order shall be submitted by the school board when the
15 copies of the school district's budget are filed with the levying
16 authority pursuant to Section 37-61-9. Upon receipt of the school
17 board's order requesting the ad valorem tax effort in dollars, the
18 levying authority shall determine the millage rate necessary to
19 generate funds equal to the dollar amount requested by the school
20 board. For the purpose of calculating this millage rate, any
21 additional amount that is levied pursuant to Section 37-57-105(1)
22 to cover anticipated delinquencies and costs of collection or any
23 amount that may be levied for the payment of the principal and
24 interest on school bonds or notes shall be excluded from the
25 limitation of fifty-five (55) mills provided for in subsection (2)
26 of this section. It is specifically provided that any charges by
27 the levying authority to local school boards for the costs of
28 collection of school district ad valorem taxes shall be assessed
29 and collected as a separate levy, and shall be excluded from the



30 limitation of fifty-five (55) mills on the district operational
31 levy provided for in subsection (2) of this section.

32 (2) (a) Except as otherwise provided under paragraph (b) or
33 (c) of this subsection, if the millage rate necessary to generate
34 funds equal to the dollar amount requested by the school board is
35 greater than fifty-five (55) mills, and if this millage rate is
36 higher than the millage then being levied pursuant to the school
37 board's order requesting the ad valorem tax effort for the
38 currently existing fiscal year, then the levying authority shall
39 call a referendum on the question of exceeding, during the next
40 fiscal year, the then existing millage rate being levied for
41 school district purposes. The referendum shall be scheduled for
42 not more than six (6) weeks after the date on which the levying
43 authority receives the school board's order requesting the ad
44 valorem tax effort.

45 When a referendum has been called, notice of the referendum
46 shall be published at least five (5) days per week, unless the
47 only newspaper published in the school district is published less
48 than five (5) days per week, for at least three (3) consecutive
49 weeks, in at least one (1) newspaper published in the school
50 district. The notice shall be no less than one-fourth (1/4) page
51 in size, and the type used shall be no smaller than eighteen (18)
52 point and surrounded by a one-fourth-inch solid black border. The
53 notice may not be placed in that portion of the newspaper where
54 legal notices and classified advertisements appear. The first
55 publication of the notice shall be made not less than twenty-one
56 (21) days before the date fixed for the referendum, and the last
57 publication shall be made not more than seven (7) days before that
58 date. If no newspaper is published in the school district, then
59 the notice shall be published in a newspaper having a general
60 circulation in the school district. The referendum shall be held,
61 as far as is practicable, in the same manner as other referendums
62 and elections are held in the county or municipality. At the



63 referendum, all registered, qualified electors of the school
64 district may vote. The ballots used at the referendum shall have
65 printed thereon a brief statement of the amount and purpose of the
66 increased tax levy and the words "FOR INCREASING THE MILLAGE
67 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
68 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
69 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
70 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
71 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
72 MILLS." The voter shall vote by placing a cross (X) or checkmark
73 (✓) opposite his choice on the proposition.

74 If a majority of the registered, qualified electors of the
75 school district who vote in the referendum vote in favor of the
76 question, then the ad valorem tax effort in dollars requested by
77 the school board shall be approved. However, if a majority of the
78 registered, qualified electors who vote in the referendum vote
79 against the question, the millage rate levied by the levying
80 authority shall not exceed the millage then being levied pursuant
81 to the school board's order requesting the ad valorem tax effort
82 for the then currently existing fiscal year.

83 Nothing in this subsection shall be construed to require any
84 school district that is levying more than fifty-five (55) mills
85 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
86 rate to fifty-five (55) mills or less. Further, nothing in this
87 subsection shall be construed to require a referendum in a school
88 district where the requested ad valorem tax effort in dollars
89 requires a millage rate of greater than fifty-five (55) mills but
90 the requested dollar amount does not require any increase in the
91 then existing millage rate. Further, nothing in this subsection
92 shall be construed to require a referendum in a school district
93 where, because of a decrease in the assessed valuation of the
94 district, a millage rate of greater than fifty-five (55) mills is
95 necessary to generate funds equal to the dollar amount generated



96 by the ad valorem tax effort for the currently existing fiscal
97 year.

98 (b) Provided, however, that if a levying authority is
99 levying in excess of fifty-five (55) mills on July 1, 1997, the
100 levying authority may levy an additional amount not exceeding
101 three (3) mills in the aggregate for the period beginning July 1,
102 1997, and ending June 30, 2003, subject to the limitation on
103 increased receipts from ad valorem taxes prescribed in Sections
104 37-57-105 and 37-57-107.

105 (c) If the levying authority for any school district
106 lawfully has decreased the millage levied for school district
107 purposes, but subsequently determines that there is a need to
108 increase the millage rate due to a disaster in which the Governor
109 has declared a disaster emergency or the President of the United
110 States has declared an emergency or major disaster, then the
111 levying authority may increase the millage levied for school
112 district purposes up to an amount that does not exceed the millage
113 rate in any one (1) of the immediately preceding ten (10) fiscal
114 years without any referendum that otherwise would be required
115 under this subsection.

116 (3) If the millage rate necessary to generate funds equal to
117 the dollar amount requested by the school board is equal to
118 fifty-five (55) mills or less, but the dollar amount requested by
119 the school board exceeds the next preceding fiscal year's ad
120 valorem tax effort in dollars by more than four percent (4%), but
121 not more than seven percent (7%) (as provided for under subsection
122 (4) of this section), then the school board shall publish notice
123 thereof at least five (5) days per week, unless the only newspaper
124 published in the school district is published less than five (5)
125 days per week, for at least three (3) consecutive weeks in a
126 newspaper published in the school district. The notice shall be
127 no less than one-fourth (1/4) page in size, and the type used
128 shall be no smaller than eighteen (18) point and surrounded by a



129 one-fourth-inch solid black border. The notice may not be placed
130 in that portion of the newspaper where legal notices and
131 classified advertisements appear. The first publication shall be
132 made not less than fifteen (15) days before the final adoption of
133 the budget by the school board. If no newspaper is published in
134 the school district, then the notice shall be published in a
135 newspaper having a general circulation in the school district. If
136 at any time before the adoption of the budget a petition signed by
137 not less than twenty percent (20%) or fifteen hundred (1500),
138 whichever is less, of the registered, qualified electors of the
139 school district is filed with the school board requesting that a
140 referendum be called on the question of exceeding the next
141 preceding fiscal year's ad valorem tax effort in dollars by more
142 than four percent (4%), then the school board shall adopt, not
143 later than the next regular meeting, a resolution calling a
144 referendum to be held within the school district upon the
145 question. The referendum shall be called and held, and notice
146 thereof shall be given, in the same manner provided for in
147 subsection (2) of this section. The ballot shall contain the
148 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
149 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
150 majority of the registered, qualified electors of the school
151 district who vote in the referendum vote in favor of the question,
152 then the increase requested by the school board shall be approved.
153 For the purposes of this subsection, the revenue sources excluded
154 from the increase limitation under Section 37-57-107 also shall be
155 excluded from the limitation described in this subsection in the
156 same manner as they are excluded under Section 37-57-107.
157 Provided, however, that any increases requested by the school
158 board as a result of the required local contribution to the
159 Mississippi Adequate Education Program, as certified to the local
160 school district by the State Board of Education under Section
161 37-151-7(2), Mississippi Code of 1972, shall not be subject to the



162 four percent (4%) and/or seven percent (7%) tax increase
163 limitations provided in this section.

164 (4) If the millage rate necessary to generate funds equal to
165 the dollar amount requested by the school board is equal to
166 fifty-five (55) mills or less, but the dollar amount requested by
167 the school board exceeds the seven percent (7%) increase
168 limitation provided for in Section 37-57-107, the school board may
169 exceed the seven percent (7%) increase limitation only after the
170 school board has determined the need for additional revenues and
171 three-fifths (3/5) of the registered, qualified electors voting in
172 a referendum called by the levying authority have voted in favor
173 of the increase. The notice and manner of holding the referendum
174 shall be as prescribed in subsection (2) of this section for a
175 referendum on the question of increasing the millage rate in
176 school districts levying more than fifty-five (55) mills for
177 school district purposes.

178 (5) The aggregate receipts from ad valorem taxes levied for
179 school district purposes pursuant to Sections 37-57-1 and
180 37-57-105, excluding collection fees, additional revenue from the
181 ad valorem tax on any newly constructed properties or any existing
182 properties added to the tax rolls or any properties previously
183 exempt which were not assessed in the next preceding year, and
184 amounts received by school districts from the School Ad Valorem
185 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
186 to the increase limitation under this section and Section
187 37-57-107.

188 (6) The school board shall pay to the levying authority all
189 costs that are incurred by the levying authority in the calling
190 and holding of any election under this section.

191 (7) The provisions of this section shall not be construed to
192 affect in any manner the authority of school boards to levy
193 millage for the following purposes:



194 (a) The issuance of bonds, notes and certificates of
195 indebtedness, as authorized in Sections 37-59-1 through 37-59-45
196 and Sections 37-59-101 through 37-59-115;

197 (b) The lease of property for school purposes, as
198 authorized under the Emergency School Leasing Authority Act of
199 1986 (Sections 37-7-351 through 37-7-359);

200 (c) The lease or lease-purchase of school buildings, as
201 authorized under Section 37-7-301;

202 (d) The issuance of promissory notes in the event of a
203 shortfall of ad valorem taxes and/or revenue from local sources,
204 as authorized under Section 27-39-333; and

205 (e) The construction of school buildings outside the
206 school district, as authorized under Section 37-7-401.

207 Any millage levied for the purposes specified in this
208 subsection shall be excluded from the millage limitations
209 established under this section.

210 **SECTION 2.** This act shall take effect and be in force from
211 and after July 1, 2003.

