To: Education; Finance

MISSISSIPPI LEGISLATURE REGULAR SESSION 2003
By: Senator(s) Harden

SENATE BILL NO. 2697

AN ACT TO AMEND SECTIONS 27-1-7, 27-1-13, 25-7-21, 27-51-25, 27-51-29, 37-7-333, 37-57-1 AND 37-57-105, MISSISSIPPI CODE OF 1972, TO CLARIFY AND PROVIDE THAT CHARGES BY THE LOCAL TAXING AUTHORITIES FOR SCHOOL TAX COLLECTION COSTS SHALL BE ASSESSED AND COLLECTED AS A SEPARATE LEVY AND TO REVISE THE DEADLINES FOR TRANSMITTING TAX COLLECTIONS TO LOCAL SCHOOL DISTRICTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-1-7, Mississippi Code of 1972, is amended as follows:

27-1-7. The assessor of each county, except as otherwise provided in this chapter, shall be the tax collector therein; and he shall give one (1) bond for the combined office of assessor and tax collector, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for such collector; however, such bond shall not exceed the amount of One Hundred Thousand Dollars ($100,000.00). He shall also take and file the oath of office as tax collector. Such assessors and tax collectors shall collect all taxes heretofore collected by the sheriffs in said counties, including, but not limited to, ad valorem and privilege taxes, charges and fees of every kind and nature heretofore comprising a portion of the tax collecting duties of the sheriffs of said counties and shall, by the twentieth day of the month (and in the case of a school district, by the fifth day of the month) following collection, pay same to the collecting political
subdivision without retaining any portion thereof for his
services. Provided, however, regardless of the political
subdivision or fund for which the tax was collected, the assessor
and tax collector shall pay at least the percentage of such tax
heretofore retained by the sheriff as his fee or the avails of any
mills levied to pay costs of collection, as applicable, directly
into the general fund of the concerned county, and said payment
shall be made by the twentieth day of the month following
collection. In case of the failure of the assessor to qualify as
tax collector within the same time allowed for taking the oath of
office and giving bond as assessor, he shall thereby vacate the
office of assessor and the vacancy, as assessor and tax collector,
shall be filled according to law. Such assessors and tax
collectors shall perform all of the tax collecting duties
heretofore performed by the sheriffs thereof with the full and
complete authority and liabilities heretofore possessed by or
imposed upon said sheriffs. However, an assessor and tax
collector shall not be liable for ad valorem taxes, privilege
taxes, charges and fees collected by him, payment for which was
made by a check, draft or other order for the payment of money
which has been returned to the assessor and tax collector because
of insufficient funds in the account on which such check, draft or
order was drawn, if the assessor and tax collector has exhausted
all reasonable means of collecting such instrument, including the
filing of a civil suit or presentation to the district attorney
for collection under Section 97-19-73 et seq.

SECTION 2. Section 27-1-13, Mississippi Code of 1972, is
amended as follows:

27-1-13. In any such county that has properly adopted a
resolution to separate such offices, there shall be a separate tax
collector therein who shall possess the same qualifications and be
elected at the same time and in the same manner as provided by law
for the assessor. He shall give bond, with sufficient surety, to
be payable, conditioned and approved as provided by law, in a
penalty equal to five percent (5%) of the sum of all the state and
county taxes shown by the assessment rolls and the levies to have
been collectible in the county for the year immediately preceding
the commencement of the term of office for said collector, and he
shall also take and file the oath of office as tax collector;
however, such bond shall not exceed the amount of One Hundred
Thousand Dollars ($100,000.00). Such tax collector shall collect
all taxes heretofore collected by sheriffs or assessors, as the
case may be, in said counties, including but not limited to ad
valorem and privilege taxes, charges and fees of every kind and
nature heretofore comprising a portion of the tax collecting
duties of the sheriffs or assessors of said counties and shall, by
the twentieth day of the month (and in the case of a school
district, by the fifth day of the month) following collection, pay
same * * * to the collecting political subdivision without
retaining any portion thereof for his services. Provided,
however, regardless of the political subdivision or fund for which
the tax was collected, the tax collector shall pay at least the
percentage of such tax heretofore retained by the sheriff as his
fee or the avails of any mills levied to pay costs of collection,
as applicable, directly into the general fund of the concerned
county, and said payment shall be made by the twentieth day of the
month following collection. Such tax collectors shall perform all
of the tax collecting duties in such counties heretofore performed
by the sheriffs or assessors thereof, as the case may be, with the
full and complete authority and liabilities heretofore possessed
by or imposed upon said sheriffs or assessors. However, a tax
collector shall not be liable for ad valorem taxes, privilege
taxes, charges and fees collected by him, payment for which was
made by a check, draft or other order for the payment of money
which has been returned to the tax collector because of
order was drawn, if the tax collector has exhausted all reasonable
tools of collecting such instrument, including the filing of a
civil suit or presentation to the district attorney for collection
under Section 97-19-73 et seq.

SECTION 3. Section 25-7-21, Mississippi Code of 1972, is
amended as follows:

25-7-21. (1) From and after October 1, 1985, there will be
no fees for the services of the tax collector, with the exception
of taxes collected for taxing authorities other than the board of
supervisors. For collecting taxes for authorities other than the
board of supervisors, the fee shall be an amount authorized by
contract between the county and the outside taxing authority, but
in no event greater than five percent (5%) of the taxes collected
on behalf of such outside taxing authority. The amount of such
fee, if any, is to be obtained from the levy by the appropriate
levying authority of a separate, special millage identified as
being levied for the sole purpose of paying such fee. A tax
collector shall keep a complete account of every such fee
collected and shall file an itemized statement thereof monthly,
under oath, with the clerk of the board of supervisors of the
county who shall preserve same as a part of the records of the
office. The tax collector shall make a remittance to the clerk of
the board of supervisors of the county on or before the twentieth
of each month for deposit into the general fund of the county of
all said fees collected during the preceding month.

(2) For the purpose of the limitations set forth in Section
27-39-321, commissions for levies set by the board of supervisors
shall be added to base collections of the general county fund for
the 1984-1985 year only.

(3) Fees of publisher for publication - To the publishers,
payable by the delinquent taxpayer, and to be collected and paid
over by the tax collectors; or if the land be sold to the state to
be paid by the state:
For each separate publication advertising lands for sale for taxes, for each separately described subdivision, as described and set out in the assessment rolls for the county.............. $1.50

(4) Fees of chancery clerk for collection of delinquent taxes:

(a) For abstracting the list of lands sold for taxes, for each separately described section or subdivision........ $1.00
(b) For filing and recording deed to land sold for taxes....................................................... $6.00
(c) For abstracting each deed in the sectional index, per section or subdivision........................... $1.00
(d) For recording redemption of each............. $6.00
(e) For abstracting each redemption in the sectional index, per section or subdivision...................... $1.00
(f) And, in addition, one percent (1%) on the amount necessary to redeem.

The several officers' fees shall be collected by the tax collector or chancery clerk and paid over to those entitled to same.

SECTION 4. Section 27-51-25, Mississippi Code of 1972, is amended as follows:

27-51-25. Within twenty days after the end of the month, the county tax collector shall file a report showing the amount of motor vehicle ad valorem taxes collected by him for the previous month. This report shall be made in part in conjunction with and as a part of the monthly report made on the collection of road and bridge privilege taxes for the same period. The form for this portion of said report shall be prescribed by the administrator of the road and bridge privilege tax law in cooperation with the state tax commission.
This said report shall show, in addition to the information prescribed by the administrator of the road and bridge privilege tax law, the following information for each motor vehicle on which
ad valorem taxes were paid: the code number of the vehicle as
fixed by the assessment schedule, the assessed value of the
vehicle, the situs of the vehicle as to school district, road
district, levee district, municipality, the total tax rate
applicable, ad valorem taxes, damages, if any, and the total ad
valorem taxes and damages. These sheets shall be numbered in
consecutive order, and shall be made in quadruplicate. The
original copy of this report shall be placed in a suitable binder
and retained by the county tax collector as a permanent record,
the first and second copies shall be forwarded to the
administrator of the road and bridge privilege tax law and
commission of public safety respectively, as now provided by law,
and the third copy shall be delivered to the chancery clerk.

When the above mentioned portion of the report has been
completed, a recapitulation of it shall be made on a separate
sheet, showing by classes the total number of road and bridge
privilege licenses issued, the amount of money collected for the
license plates, the total road and bridge privilege taxes
collected by classes, and the total amount of ad valorem taxes
collected designating the amount collected for each separate
taxing area. This report shall also be made in quadruplicate.
The tax collector shall retain the original as a permanent record,
the first copy shall be forwarded to the administrator of the road
and bridge privilege tax law, the second copy shall be forwarded
to the tax commission, and the third copy shall be delivered to
the chancery clerk.

Motor vehicle ad valorem tax collections shall be entered in
the tax collector's cash book as reflected by the said
recapitulation, showing by taxing area, the total assessed value
and total such taxes collected each month for each separate taxing
area, and it shall not be necessary that either the tax receipt
number or the taxpayer's name be entered, as required by Section
27-41-39, Mississippi Code of 1972, for other ad valorem tax collections.

In all cases where the county tax collector is ordered to collect motor vehicle ad valorem taxes for a municipality, the tax collector shall furnish to each such municipality a certified statement as to the total assessed value of the motor vehicles on which taxes were collected for such municipality, together with an additional statement showing the net amount of taxes collected for such municipality less his indicated collection fees. This report shall be made to the municipality at the same time a remittance is made to the municipality for all such net ad valorem taxes collected for the said municipality for the previous month. This remittance and report shall be made to the municipality on or before the twentieth day of the month (and in the case of taxes for school district purposes, by the fifth day of the month) following that in which the collections were made.

SECTION 5. Section 27-51-29, Mississippi Code of 1972, is amended as follows:

27-51-29. Any municipality in the state desiring to have its motor vehicle ad valorem taxes collected by the county tax collector at the same time and in the same manner provided for by this chapter for collecting county and state ad valorem taxes on motor vehicles may do so by proceeding as follows:

On or before the 1st day of May, the municipal board shall enter an order upon its minutes signifying its desire to have the county tax collector collect its motor vehicle ad valorem taxes at the same time and in the same manner that he collects the county and state ad valorem taxes on such motor vehicles for the ensuing fiscal year. A certified copy of this order shall be furnished the tax collector of the county, the state tax commission, and the administrator of the road and bridge privilege tax laws. In such case, it shall be mandatory that such municipal ad valorem taxes be collected by the county tax collector.
The authorization of the tax collector to collect municipal
taxes on this class of property shall also include the collection
of such taxes on such property located in the municipal separate
school district, if any, although such property is located outside
of the corporate limits of such municipality.

On or before September fifteenth, the municipal clerk shall
certify to the county tax collector a copy of its official tax
levy for the then ensuing fiscal year. On this tax levy, the
clerk shall not only certify as to the tax levy for each purpose
for which it was levied, but he shall also certify as to the total
amount of the levy for all municipal purposes, and he shall show
separately the total amount of the levy for the municipal separate
school district, if the said municipality is a part of a municipal
separate school district.

After collecting such municipal and municipal separate school
district ad valorem taxes, the county tax collector shall retain
the fee, to be derived from the special millage levy for such
purpose, as allowed in Section 25-7-21, Mississippi Code of
1972 * * *. Such fees shall be paid into the county general fund.
The tax collector shall, on or before the twentieth day of the
following month, remit to the municipality, and on or before the
fifth day of the following month remit to the municipal separate
school district, the remaining portion of such taxes so collected
for and during the preceding month. A report of the total
assessed value of the subject motor vehicle on which such
municipal ad valorem taxes were collected for the preceding month
shall be forwarded to the municipality along with the said
remittance.

The records of the county tax collector shall be available at
any time during regular office hours for inspection by the
municipal authorities or their authorized agents to determine as
to whether or not any such taxpayer has been properly assessed,
both as to value and as to situs of the subject motor vehicle, and
as to whether or not the proper tax has been collected and
remitted for the benefit of the municipality and municipal
separate school district, in proper cases, if such municipality
has officially authorized said tax collector to collect its motor
vehicle ad valorem taxes as provided hereinabove.

For similar violations of this chapter, the same penalties
shall apply in favor of any municipality, in proper cases, which
apply in favor of the counties. The tax collector shall be liable
on his official bond to the municipality for any failure on his
part to assess, collect and remit the correct amount of taxes due
any municipality under the provisions of this chapter on any motor
vehicle for which he collects county and state ad valorem taxes.

SECTION 6. Section 37-7-333, Mississippi Code of 1972, is
amended as follows:

37-7-333. The school boards of all school districts shall
have full control of the receipt, distribution, allotment and
disbursement of all funds which may be provided for the support
and maintenance of the schools of such district or for the payment
of principal of or interest on school notes or bonds, whether such
funds be adequate education program allotments, funds derived from
supplementary tax levies as authorized by law, or funds derived
from any other source whatsoever except as may otherwise be
provided by law for control of the proceeds from school bonds or
notes and the taxes levied to pay the principal of and interest on
such bonds or notes. The tax collector of each county shall make
reports, in writing, verified by his affidavit, on or before the
fifth day of each month to the superintendent of schools of each
school district within such county reflecting all school district
taxes collected by him for all purposes for the said school
district during the preceding month. He shall at the same time
pay over all such school district taxes collected by him for the
said school district directly to said superintendent of
schools.

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All such allotments or funds shall be placed in the depository or depositories selected by the school board in the same manner as provided in Section 27-105-305 for the selection of county depositories. Provided, however, the annual notice to be given by the school board to financial institutions may be given by the school board at any regular meeting subsequent to the board's regular December meeting but prior to the regular May meeting. The bids of financial institutions for the privilege of keeping school funds may be received by the school board at some subsequent meeting, but no later than the regular June meeting; and the selection by the school board of the depository or depositories shall be effective on July 1 of each year. School boards shall advertise and accept bids for depositories, no less than once every three (3) years, when such board determines that it can obtain a more favorable rate of interest and less administrative processing. Such depository shall place on deposit with the superintendent of schools the same securities as required in Section 27-105-315.

In the event a bank submits a bid or offer to a school district to act as a depository for the district and such bid or offer, if accepted, would result in a contract in which a member of the school board would have a direct or indirect interest, the school board should not open or consider any bids received. The superintendent of schools shall submit the matter to the State Treasurer, who shall have the authority to solicit bids, select a depository or depositories, make all decisions and take any action within the authority of the school board under this section relating to the selection of a depository or depositories.

SECTION 7. Section 37-57-1, Mississippi Code of 1972, is amended as follows:

37-57-1. (1) (a) The boards of supervisors of the counties shall levy and collect all taxes for and on behalf of all school
districts which were within the county school system or designated
as special municipal separate school districts prior to July 1, 1986. Such taxes shall be collected by the county tax collector
at the same time and in the same manner as county taxes are
collected by him, and the same penalties for delinquency shall be
applicable.

The governing authorities of the municipalities shall levy
and collect all taxes for and on behalf of all school districts
which were designated as municipal separate school districts prior
to July 1, 1986. Such taxes shall be collected by the municipal
tax collector at the same time and in the same manner as municipal
taxes are collected by him, and the same penalties for delinquency
shall be applicable.

The county or municipal tax collector, as the case may be,
shall pay such tax collections, except for * * * taxes collected
to defray collection costs, to the superintendent of schools of
the appropriate school district and report to the superintendent
of schools of the appropriate school district at the same time and
in the same manner as the tax collector makes his payments and
reports of other taxes collected by him. Any tax collections to
defray collection costs must be derived from the levy by the
appropriate levying authority of a separate, special millage that
is not included in the millage for school tax purposes and that is
identified as being levied for the sole purpose of defraying
collection costs.

Provided, however, the State Board of Education shall
determine the appropriate levying authority for any school
district created or reorganized after July 1, 1987.

(b) For the purposes of this chapter and any other laws
pertaining to taxes levied or bonds or notes issued for and on
behalf of school districts, the term "levying authority" means the
board of supervisors of the county or the governing authorities of
the municipality, whichever levies taxes for and on behalf of the
particular school district as provided in paragraphs (a) and (b) of this subsection.

(2) The levying authority for the school district shall, at the same time and in the same manner as other taxes are levied by the levying authority, levy a tax of not less than twenty-eight (28) mills for the then current fiscal year, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grant to the school district as determined by the State Department of Education or twenty-seven percent (27%) of the basic adequate education program cost for such school district, whichever is a lesser amount, upon all of the taxable property of the school district, as required under Section 37-151-7(2)(a). However, in no case shall the minimum local ad valorem tax effort for any school district be equal to an amount that would require a millage rate exceeding fifty-five (55) mills in that school district. Provided, however, that if a levying authority is levying in excess of fifty-five (55) mills on July 1, 1997, the levying authority may levy an additional amount not exceeding three (3) mills in the aggregate for the period beginning July 1, 1997, and ending June 30, 2003, subject to the limitation on increased receipts from ad valorem taxes prescribed in Sections 37-57-105 and 37-57-107. Nothing in this subsection shall be construed to require any school district that is levying more than fifty-five (55) mills pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage rate to fifty-five (55) mills or less. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies * * * so that the net amount of money to be produced by such levy shall be equal to the amount which the school district is required to contribute as its said minimum local ad valorem tax effort. The levying authority may also levy an additional amount to defray costs of collection; provided, however, that any levy to defray collection costs must be a separate, special millage that is not included in
the millage for school tax purposes and that is identified as being levied for the sole purpose of defraying collection costs. The tax so levied shall be collected by the tax collector at the same time and in the same manner as other ad valorem taxes are collected by him. The amount of taxes so collected as a result of such levy shall be paid into the district maintenance fund of the school district by the tax collector at the same time and in the same manner as reports and payments of other ad valorem taxes are made by said tax collector, except that the amount collected to defray costs of collection may be paid into the county general fund or other appropriate fund. The levying authority shall have the power and authority to direct and cause warrants to be issued against such fund for the purpose of refunding any amount of taxes erroneously or illegally paid into such fund where such refund has been approved in the manner provided by law.

SECTION 8. Section 37-57-105, Mississippi Code of 1972, is amended as follows:

37-57-105. (1) In addition to the taxes levied under Section 37-57-1, the levying authority for the school district, as defined in Section 37-57-1, upon receipt of a certified copy of an order adopted by the school board of the school district requesting an ad valorem tax effort in dollars for the support of the school district, shall, at the same time and in the same manner as other ad valorem taxes are levied, levy an annual ad valorem tax in the amount fixed in such order upon all of the taxable property of such school district, which shall not be less than the millage rate certified by the State Board of Education as the uniform minimum school district ad valorem tax levy for the support of the adequate education program in such school district under Section 37-57-1. Provided, however, that any school district levying less than the uniform minimum school district ad valorem tax levy on July 1, 1997, shall only be required to increase its local district maintenance levy in four (4) mill
annual increments in order to attain such millage requirements. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies** so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by said school board. The levying authority may also levy an additional amount to defray costs of collection; provided, however, that any levy to defray collection costs must be a separate, special millage that is not included in the millage for school tax purposes and that is identified as being levied for the sole purpose of defraying collection costs. The proceeds of such tax levy, excluding levies for the payment of the principal of and interest on school bonds or notes and excluding levies for costs of collection, shall be placed in the school depository to the credit of the school district, or otherwise invested by the district in any manner allowed by law, and shall be expended in the manner provided by law for the purpose of supplementing teachers' salaries, extending school terms, purchasing furniture, supplies and materials, and for all other lawful operating and incidental expenses of such school district, funds for which are not provided by adequate education program fund allotments. The monies authorized to be received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35 shall be included as ad valorem tax receipts. The levying authority for the school district, as defined in Section 37-57-1, shall reduce the ad valorem tax levy for such school district in an amount equal to the amount distributed to such school district from the School Ad Valorem Tax Reduction Fund each calendar year pursuant to said Section 37-61-35. Such reduction shall not be less than the millage rate necessary to generate a reduction in ad valorem tax receipts equal to the funds distributed to such school district from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35. Such reduction shall
not be deemed to be a reduction in the aggregate amount of support
from ad valorem taxation for purposes of Section 37-19-11. The
millage levy certified by the State Board of Education as the
uniform minimum ad valorem tax levy or the millage levy that would
generate funds in an amount equal to a school district's district
entitlement, as defined in Section 37-22-1(2)(e), shall be subject
to the provisions of this paragraph.

In any county where there is located a nuclear generating
power plant on which a tax is assessed under Section 27-35-309(3),
such required levy and revenue produced thereby may be reduced by
the levying authority in an amount in proportion to a reduction in
the base revenue of any such county from the previous year. Such
reduction shall be allowed only if the reduction in base revenue
equals or exceeds five percent (5%). "Base revenue" shall mean
the revenue received by the county from the ad valorem tax levy
plus the revenue received by the county from the tax assessed
under Section 27-35-309(3) and authorized to be used for any
purposes for which a county is authorized by law to levy an ad
valorem tax. For purposes of determining if the reduction equals
or exceeds five percent (5%), a levy of millage equal to the prior
year's millage shall be hypothetically applied to the current
year's ad valorem tax base to determine the amount of revenue to
be generated from the ad valorem tax levy. For the purposes of
this section and Section 37-57-107, the portion of the base
revenue used for the support of any school district shall be
deemed to be the aggregate receipts from ad valorem taxes for the
support of any school district. This paragraph shall apply to
taxes levied for the 1987 fiscal year and for each fiscal year
thereafter. If the Mississippi Supreme Court or another court
finally adjudicates that the tax levied under Section 27-35-309(3)
is unconstitutional, then this paragraph shall stand repealed.

(2) When the tax is levied upon the territory of any school
district located in two (2) or more counties, the order of the
school board requesting the levying of such tax shall be certified
to the levying authority of each of the counties involved, and
each of the levying authorities shall levy the tax in the manner
specified herein. The taxes so levied shall be collected by the
tax collector of the levying authority involved and remitted by
the tax collector to the school depository of the home county to
the credit of the school district involved as provided above,
except that taxes for collection fees may be retained by the
levying authority for deposit into its general fund.

(3) The aggregate receipts from ad valorem taxes levied for
school district purposes, excluding collection fees, pursuant to
this section and Section 37-57-1 shall be subject to the increased
limitation under Section 37-57-107; however, if the ad valorem tax
effort in dollars requested by the school district for the fiscal
year exceeds the next preceding fiscal year's ad valorem tax
effort in dollars by more than four percent (4%) but not more than
seven percent (7%), then the school board shall publish notice
thereof once each week for at least three (3) consecutive weeks in
a newspaper having general circulation in the school district
involved, with the first publication thereof to be made not less
than fifteen (15) days prior to the final adoption of the budget
by the school board. If at any time prior to said adoption a
petition signed by not less than twenty percent (20%) or fifteen
hundred (1500), whichever is less, of the qualified electors of
the school district involved shall be filed with the school board
requesting that an election be called on the question of exceeding
the next preceding fiscal year's ad valorem tax effort in dollars
by more than four percent (4%) but not more than seven percent
(7%), then the school board shall, not later than the next regular
meeting, adopt a resolution calling an election to be held within
such school district upon such question. The election shall be
called and held, and notice thereof shall be given, in the same
manner for elections upon the questions of the issuance of the
bonds of school districts, and the results thereof shall be certified to the school board. The ballot shall contain the language "For the School Tax Increase Over Four Percent (4%)" and "Against the School Tax Increase Over Four Percent (4%)." If a majority of the qualified electors of the school district who voted in such election shall vote in favor of the question, then the stated increase requested by the school board shall be approved. For the purposes of this paragraph, the revenue sources excluded from the increased limitation under Section 37-57-107 shall also be excluded from the limitation described herein in the same manner as they are excluded under Section 37-57-107.

SECTION 9. This act shall take effect and be in force from and after July 1, 2003.