

By: Representative Shirley

To: Education; Ways and Means

HOUSE BILL NO. 1282

1 AN ACT TO AMEND SECTIONS 37-57-104, 37-57-105 AND 37-57-107,
2 MISSISSIPPI CODE OF 1972, TO DELETE THE AUTHORITY OF SCHOOL BOARDS
3 TO INCREASE AD VALOREM TAXES LEVIED FOR SCHOOL DISTRICT PURPOSES
4 BY MORE THAN TWO PERCENT OVER THE AMOUNT LEVIED IN THE PRECEDING
5 YEAR ABSENT APPROVAL BY A MAJORITY VOTE IN A REFERENDUM ON THE
6 PROPOSED TAX INCREASE; TO AMEND SECTION 27-39-207, MISSISSIPPI
7 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR
8 RELATED PURPOSES.

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

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

12 37-57-104. (1) Each school board shall submit to the
13 levying authority for the school district a certified copy of an
14 order adopted by the school board requesting an ad valorem tax
15 effort in dollars for the support of the school district. The
16 copy of the order shall be submitted by the school board when the
17 copies of the school district's budget are filed with the levying
18 authority pursuant to Section 37-61-9. Upon receipt of the school
19 board's order requesting the ad valorem tax effort in dollars, the
20 levying authority shall determine the millage rate necessary to
21 generate funds equal to the dollar amount requested by the school



22 board. For the purpose of calculating this millage rate, any
23 additional amount that is levied pursuant to Section 37-57-105(1)
24 to cover anticipated delinquencies and costs of collection or any
25 amount that may be levied for the payment of the principal and
26 interest on school bonds or notes shall be excluded from the
27 limitation of fifty-five (55) mills provided for in subsection (2)
28 of this section.

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

42 When a referendum has been called, notice of the referendum
43 shall be published at least five (5) days per week, unless the
44 only newspaper published in the school district is published less
45 than five (5) days per week, for at least three (3) consecutive
46 weeks, in at least one (1) newspaper published in the school



47 district. The notice shall be no less than one-fourth (1/4) page
48 in size, and the type used shall be no smaller than eighteen (18)
49 point and surrounded by a one-fourth-inch solid black border. The
50 notice may not be placed in that portion of the newspaper where
51 legal notices and classified advertisements appear. The first
52 publication of the notice shall be made not less than twenty-one
53 (21) days before the date fixed for the referendum, and the last
54 publication shall be made not more than seven (7) days before that
55 date. If no newspaper is published in the school district, then
56 the notice shall be published in a newspaper having a general
57 circulation in the school district. The referendum shall be held,
58 as far as is practicable, in the same manner as other referendums
59 and elections are held in the county or municipality. At the
60 referendum, all registered, qualified electors of the school
61 district may vote. The ballots used at the referendum shall have
62 printed thereon a brief statement of the amount and purpose of the
63 increased tax levy and the words "FOR INCREASING THE MILLAGE
64 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
65 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
66 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
67 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
68 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
69 MILLS." The voter shall vote by placing a cross (X) or checkmark
70 (√) opposite his choice on the proposition.



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

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



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

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

113 (3) * * * If the millage rate necessary to generate funds
114 equal to the dollar amount requested by the school board is equal
115 to fifty-five (55) mills or less, but the dollar amount requested
116 by the school board exceeds the * * * two percent (2%) increase
117 limitation provided for in Section 37-57-107, the school board may
118 exceed the * * * two percent (2%) increase limitation only after
119 the school board has determined the need for additional revenues



120 and * * * a majority of the registered, qualified electors voting
121 in a referendum called by the levying authority have voted in
122 favor of the increase. The notice and manner of holding the
123 referendum shall be as prescribed in subsection (2) of this
124 section for a referendum on the question of increasing the millage
125 rate in school districts levying more than fifty-five (55) mills
126 for school district purposes. The ballot shall contain the
127 language "FOR THE SCHOOL TAX INCREASE OVER TWO PERCENT (2%)" and
128 "AGAINST THE SCHOOL TAX INCREASE OVER TWO PERCENT (2%)." If a
129 majority of the registered, qualified electors of the school
130 district who vote in the referendum vote in favor of the question,
131 then the increase requested by the school board shall be approved.
132 For the purposes of this subsection, the revenue sources excluded
133 from the increase limitation under Section 37-57-107 also shall be
134 excluded from the limitation described in this subsection in the
135 same manner as they are excluded under Section 37-57-107.

136 (* * * 4) The aggregate receipts from ad valorem taxes
137 levied for school district purposes pursuant to Sections 37-57-1
138 and 37-57-105, excluding collection fees, additional revenue from
139 the ad valorem tax on any newly constructed properties or any
140 existing properties added to the tax rolls or any properties
141 previously exempt which were not assessed in the next preceding
142 year, and amounts received by school districts from the School Ad
143 Valorem Tax Reduction Fund pursuant to Section 37-61-35, shall be



144 subject to the increase limitation under this section and Section
145 37-57-107.

146 (* * *5) The school board shall pay to the levying
147 authority all costs that are incurred by the levying authority in
148 the calling and holding of any election under this section.

149 (* * *6) The provisions of this section shall not be
150 construed to affect in any manner the authority of school boards
151 to levy millage for the following purposes:

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

155 (b) The lease of property for school purposes, as
156 authorized under the Emergency School Leasing Authority Act of
157 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

165 Any millage levied for the purposes specified in this
166 subsection shall be excluded from the millage limitations
167 established under this section.



168 **SECTION 2.** Section 37-57-105, Mississippi Code of 1972, is
169 amended as follows:

170 37-57-105. (1) In addition to the taxes levied under
171 Section 37-57-1, the levying authority for the school district, as
172 defined in Section 37-57-1, upon receipt of a certified copy of an
173 order adopted by the school board of the school district
174 requesting an ad valorem tax effort in dollars for the support of
175 the school district, shall, at the same time and in the same
176 manner as other ad valorem taxes are levied, levy an annual ad
177 valorem tax in the amount fixed in such order upon all of the
178 taxable property of such school district, which shall not be less
179 than the millage rate certified by the State Board of Education as
180 the uniform minimum school district ad valorem tax levy for the
181 support of the adequate education program in such school district
182 under Section 37-57-1. Provided, however, that any school
183 district levying less than the uniform minimum school district ad
184 valorem tax levy on July 1, 1997, shall only be required to
185 increase its local district maintenance levy in four (4) mill
186 annual increments in order to attain such millage requirements.
187 In making such levy, the levying authority shall levy an
188 additional amount sufficient to cover anticipated delinquencies
189 and costs of collection so that the net amount of money to be
190 produced by such levy shall be equal to the amount which is
191 requested by said school board. The proceeds of such tax levy,
192 excluding levies for the payment of the principal of and interest



193 on school bonds or notes and excluding levies for costs of
194 collection, shall be placed in the school depository to the credit
195 of the school district and shall be expended in the manner
196 provided by law for the purpose of supplementing teachers'
197 salaries, extending school terms, purchasing furniture, supplies
198 and materials, and for all other lawful operating and incidental
199 expenses of such school district, funds for which are not provided
200 by adequate education program fund allotments.

201 The monies authorized to be received by school districts from
202 the School Ad Valorem Tax Reduction Fund pursuant to Section
203 37-61-35 shall be included as ad valorem tax receipts. The
204 levying authority for the school district, as defined in Section
205 37-57-1, shall reduce the ad valorem tax levy for such school
206 district in an amount equal to the amount distributed to such
207 school district from the School Ad Valorem Tax Reduction Fund each
208 calendar year pursuant to said Section 37-61-35. Such reduction
209 shall not be less than the millage rate necessary to generate a
210 reduction in ad valorem tax receipts equal to the funds
211 distributed to such school district from the School Ad Valorem Tax
212 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
213 not be deemed to be a reduction in the aggregate amount of support
214 from ad valorem taxation for purposes of Section 37-19-11. The
215 millage levy certified by the State Board of Education as the
216 uniform minimum ad valorem tax levy or the millage levy that would
217 generate funds in an amount equal to a school district's district



218 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
219 to the provisions of this paragraph.

220 In any county where there is located a nuclear generating
221 power plant on which a tax is assessed under Section 27-35-309(3),
222 such required levy and revenue produced thereby may be reduced by
223 the levying authority in an amount in proportion to a reduction in
224 the base revenue of any such county from the previous year. Such
225 reduction shall be allowed only if the reduction in base revenue
226 equals or exceeds five percent (5%). "Base revenue" shall mean
227 the revenue received by the county from the ad valorem tax levy
228 plus the revenue received by the county from the tax assessed
229 under Section 27-35-309(3) and authorized to be used for any
230 purposes for which a county is authorized by law to levy an ad
231 valorem tax. For purposes of determining if the reduction equals
232 or exceeds five percent (5%), a levy of millage equal to the prior
233 year's millage shall be hypothetically applied to the current
234 year's ad valorem tax base to determine the amount of revenue to
235 be generated from the ad valorem tax levy. For the purposes of
236 this section and Section 37-57-107, the portion of the base
237 revenue used for the support of any school district shall be
238 deemed to be the aggregate receipts from ad valorem taxes for the
239 support of any school district. This paragraph shall apply to
240 taxes levied for the 1987 fiscal year and for each fiscal year
241 thereafter. If the Mississippi Supreme Court or another court



242 finally adjudicates that the tax levied under Section 27-35-309(3)
243 is unconstitutional, then this paragraph shall stand repealed.

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

255 (3) The aggregate receipts from ad valorem taxes levied for
256 school district purposes, excluding collection fees, pursuant to
257 this section and Section 37-57-1 shall be subject to the * * *
258 increase limitation under Section 37-57-107 * * *.

259 **SECTION 3.** Section 37-57-107, Mississippi Code of 1972, is
260 amended as follows:

261 37-57-107. (1) Beginning with the tax levy for the * * *
262 2018 fiscal year and for each fiscal year thereafter, the
263 aggregate receipts from taxes levied for school district purposes
264 pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the
265 aggregate receipts from those sources during any one (1) of the
266 immediately preceding three (3) fiscal years, as determined by the



267 school board, plus an increase not to exceed * * * two percent
268 (2%). For the purpose of this limitation, the term "aggregate
269 receipts" when used in connection with the amount of funds
270 generated in a preceding fiscal year shall not include excess
271 receipts required by law to be deposited into a special account.
272 The additional revenue from the ad valorem tax on any newly
273 constructed properties or any existing properties added to the tax
274 rolls or any properties previously exempt which were not assessed
275 in the next preceding year may be excluded from the * * * two
276 percent (2%) increase limitation set forth herein. Taxes levied
277 for payment of principal of and interest on general obligation
278 school bonds issued heretofore or hereafter shall be excluded from
279 the * * * two percent (2%) increase limitation set forth herein.
280 Any additional millage levied to fund any new program mandated by
281 the Legislature shall be excluded from the limitation for the
282 first year of the levy and included within such limitation in any
283 year thereafter. For the purposes of this section, the term "new
284 program" shall include, but shall not be limited to * * * :
285 (a) * * * any additional millage levied and the revenue generated
286 therefrom, which is excluded from the limitation for the first
287 year of the levy, to support the * * * Early Childhood Education
288 Program, which shall be specified on the minutes of the school
289 board and of the governing body making such tax levy; (b) any
290 additional millage levied and the revenue generated therefrom
291 which shall be excluded from the limitation for the first year of



292 the levy, for the purpose of generating additional local
293 contribution funds required for the adequate education program for
294 the 2003 fiscal year and for each fiscal year thereafter under
295 Section 37-151-7(2); and (c) any additional millage levied and the
296 revenue generated therefrom which shall be excluded from the
297 limitation for the first year of the levy, for the purpose of
298 support and maintenance of any agricultural high school which has
299 been transferred to the control, operation and maintenance of the
300 school board by the board of trustees of the community college
301 district under provisions of Section 37-29-272.

302 (2) The * * * two percent (2%) increase limitation
303 prescribed in this section may be increased an additional amount
304 only when the school board has determined the need for additional
305 revenues and has held an election on the question of raising the
306 limitation prescribed in this section. The limitation may be
307 increased only if * * * a majority of those voting in the election
308 shall vote for the proposed increase. The resolution, notice and
309 manner of holding the election shall be as prescribed * * * under
310 Section 37-57-104. Revenues collected for the fiscal year in
311 excess of the * * * two percent (2%) increase limitation pursuant
312 to an election shall be included in the tax base for the purpose
313 of determining aggregate receipts for which the * * * two percent
314 (2%) increase limitation applies for subsequent fiscal years.

315 (3) Except as otherwise provided for excess revenues
316 generated pursuant to an election, if revenues collected as the



317 result of the taxes levied for the fiscal year pursuant to this
318 section and Section 37-57-1 exceed the increase limitation, then
319 it shall be the mandatory duty of the school board of the school
320 district to deposit such excess receipts over and above the
321 increase limitation into a special account and credit it to the
322 fund for which the levy was made. It will be the further duty of
323 such board to hold said funds and invest the same as authorized by
324 law. Such excess funds shall be calculated in the budgets for the
325 school districts for the purpose for which such levies were made,
326 for the succeeding fiscal year. Taxes imposed for the succeeding
327 year shall be reduced by the amount of excess funds available.
328 Under no circumstances shall such excess funds be expended during
329 the fiscal year in which such excess funds are collected.

330 (4) For the purposes of determining ad valorem tax receipts
331 for a preceding fiscal year under this section, the term "fiscal
332 year" means the fiscal year beginning October 1 and ending
333 September 30.

334 (5) Beginning with the 2013-2014 school year, each school
335 district in which a charter school is located shall pay to the
336 charter school an amount for each student enrolled in the charter
337 school equal to the ad valorem taxes levied per pupil for the
338 support of the school district in which the charter school is
339 located. The pro rata ad valorem taxes to be transferred to the
340 charter school must include all levies for the support of the
341 school district under Sections 37-57-1 (local contribution to the



342 adequate education program) and 37-57-105 (school district
343 operational levy) but may not include any taxes levied for the
344 retirement of school district bonded indebtedness or short-term
345 notes or any taxes levied for the support of vocational-technical
346 education programs. Payments made pursuant to this subsection by
347 a school district to a charter school must be made before the
348 expiration of three (3) business days after the funds are
349 distributed to the school district.

350 **SECTION 4.** Section 27-39-207, Mississippi Code of 1972, is
351 amended as follows:

352 27-39-207. (1) Unless the increased revenue in a budget is
353 derived solely from the expansion of a school district's ad
354 valorem tax base, a school district shall not budget an increase
355 in an ad valorem tax effort in dollars for support of the school
356 district unless it first advertises its intention to do so at the
357 same time that it advertises its intention to fix its budget for
358 the next fiscal year.

359 (2) A request for an increase in ad valorem tax effort in
360 dollars for the support of the school district pursuant to
361 Sections 37-57-104, 37-57-105 and 37-57-107 shall not be levied
362 until an order has been approved by the school board of the school
363 district in accordance with the following procedure:

364 (a) The school board of the school district shall
365 advertise its intent to increase its ad valorem tax effort in
366 dollars in a newspaper of general circulation in the county. The



367 advertisement shall be no less than one-fourth (1/4) page in size
368 and the type used shall be no smaller than eighteen (18) point and
369 surrounded by a one-fourth-inch solid black border. The
370 advertisement shall not be placed in any portion of the newspaper
371 where legal notices and classified advertisements appear. The
372 advertisement shall appear in a newspaper that is published at
373 least five (5) days a week, unless the only newspaper in the
374 county is published less than five (5) days a week. The newspaper
375 selected shall be one of general interest, readership and
376 circulation in all areas of the community. The advertisement
377 shall be published once each week for the two-week period
378 preceding the adoption of the final budget. The advertisement
379 shall provide that the school board of the school district will
380 meet on a certain day, date, time and place fixed in the
381 advertisement, which shall be no less than seven (7) days after
382 the day the first advertisement is published. The meeting on the
383 proposed increase may coincide with the hearing on the proposed
384 budget of the school board of the school district.

385 (b) Except as provided for in subsection (1) of this
386 section, if a school district is requesting an increase in ad
387 valorem tax effort in dollars pursuant to Sections 37-57-104,
388 37-57-105 and 37-57-107, it shall be in the following form:

389 **"NOTICE OF PROPOSED AD VALOREM TAX EFFORT**

390 **(Name of the school district)**



391 The (name of the school district) will hold a public hearing
392 on its proposed school district budget for fiscal year (insert the
393 year) on (date and time) at (meeting place). At this meeting, a
394 proposed ad valorem tax effort will be considered.

395 The (name of the school district) is now operating with a
396 projected total budget revenue of \$_____. Of that amount,
397 ____ percent or \$_____ of such revenue is obtained through ad
398 valorem taxes. For next fiscal year, the proposed budget has
399 total projected revenue of \$_____. Of that amount, ____
400 percent or \$_____ is proposed to be financed through a total
401 ad valorem tax levy.

402 For the next fiscal year, the proposed increase in ad valorem
403 tax effort by (name of the school district) may result in an
404 increase in the ad valorem tax millage rate. Ad valorem taxes are
405 paid on homes, automobile tags, business fixtures and equipment,
406 and rental real property.

407 Any citizen of (name of the school district) is invited to
408 attend this public hearing on the proposed ad valorem tax effort,
409 and will be allowed to speak for a reasonable amount of time and
410 offer tangible evidence before any vote is taken."

411 (3) The school board of the school district, after the
412 hearing has been held in accordance with the above procedures, may
413 adopt an order requesting the levying of an ad valorem tax effort
414 in dollars in excess of the certified tax rate. If such order is
415 not adopted on the day of the public hearing, the scheduled date,



416 time and place for consideration and adoption of the order shall
417 be announced at the public hearing.

418 (4) All hearings shall be open to the public. The school
419 board of the school district shall permit all interested parties
420 desiring to be heard an opportunity to present oral testimony
421 within reasonable time limits and offer tangible evidence.

422 (5) Each school board of a school district shall notify the
423 taxing entity of the date, time and place of its public hearing.
424 No school board of a school district may schedule its hearing at
425 the same time as another overlapping school district in the same
426 county.

427 **SECTION 5.** This act shall take effect and be in force from
428 and after July 1, 2018.

