

**Withdrawn
AMENDMENT NO 1 PROPOSED TO**

House Bill No. 850

BY: Representative Wallace

1 **AMEND** by striking Sections 1 and 2 of the bill and inserting in
2 lieu thereof the following:

3 " **SECTION 1.** Section 37-57-104, Mississippi Code of 1972, is
4 amended as follows:

5 37-57-104. (1) Each school board shall submit to the
6 levying authority for the school district a certified copy of an
7 order adopted by the school board requesting an ad valorem tax
8 effort in dollars for the support of the school district. The
9 copy of the order shall be submitted by the school board when the
10 copies of the school district's budget are filed with the levying
11 authority pursuant to Section 37-61-9. Upon receipt of the school
12 board's order requesting the ad valorem tax effort in dollars, the
13 levying authority may, in its discretion, approve, in full or in



14 part, the dollar amount requested and shall determine the millage
15 rate necessary to generate funds equal to the dollar amount
16 requested by the school board as approved by the levying
17 authority. For the purpose of calculating this millage rate, any
18 additional amount that is levied pursuant to Section 37-57-105(1)
19 to cover anticipated delinquencies and costs of collection or any
20 amount that may be levied for the payment of the principal and
21 interest on school bonds or notes shall be excluded from the
22 limitation of fifty-five (55) mills provided for in subsection (2)
23 of this section.

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

37 When a referendum has been called, notice of the referendum
38 shall be published at least five (5) days per week, unless the



39 only newspaper published in the school district is published less
40 than five (5) days per week, for at least three (3) consecutive
41 weeks, in at least one (1) newspaper published in the school
42 district. The notice shall be no less than one-fourth (1/4) page
43 in size, and the type used shall be no smaller than eighteen (18)
44 point and surrounded by a one-fourth-inch solid black border. The
45 notice may not be placed in that portion of the newspaper where
46 legal notices and classified advertisements appear. The first
47 publication of the notice shall be made not less than twenty-one
48 (21) days before the date fixed for the referendum, and the last
49 publication shall be made not more than seven (7) days before that
50 date. If no newspaper is published in the school district, then
51 the notice shall be published in a newspaper having a general
52 circulation in the school district. The referendum shall be held,
53 as far as is practicable, in the same manner as other referendums
54 and elections are held in the county or municipality. At the
55 referendum, all registered, qualified electors of the school
56 district may vote. The ballots used at the referendum shall have
57 printed thereon a brief statement of the amount and purpose of the
58 increased tax levy and the words "FOR INCREASING THE MILLAGE
59 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
60 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
61 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
62 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
63 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)



MILLS." The voter shall vote by placing a cross (X) or checkmark (✓) opposite his choice on the proposition.

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

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. Further, nothing in this subsection shall be construed to require a referendum in a school district where the requested ad valorem tax effort in dollars requires a millage rate of greater than fifty-five (55) mills but the requested dollar amount does not require any increase in the then existing millage rate. Further, nothing in this subsection shall be construed to require a referendum in a school district where, because of a decrease in the assessed valuation of the district, a millage rate of greater than fifty-five (55) mills is necessary to generate funds equal to the dollar amount generated



89 by the ad valorem tax effort for the currently existing fiscal
90 year.

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

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

109 (3) (a) If the millage rate necessary to generate funds
110 equal to the dollar amount requested by the school board and
111 approved by the levying authority is equal to fifty-five (55)
112 mills or less, but the dollar amount requested by the school board
113 and approved by the levying authority exceeds the next preceding



114 fiscal year's ad valorem tax effort in dollars by more than four
115 percent (4%), but not more than seven percent (7%) (as provided
116 for under subsection (4) of this section), then the school board
117 shall publish notice thereof at least five (5) days per week,
118 unless the only newspaper published in the school district is
119 published less than five (5) days per week, for at least three (3)
120 consecutive weeks in a newspaper published in the school district.
121 The notice shall be no less than one-fourth (1/4) page in size,
122 and the type used shall be no smaller than eighteen (18) point and
123 surrounded by a one-fourth-inch solid black border. The notice
124 may not be placed in that portion of the newspaper where legal
125 notices and classified advertisements appear. The first
126 publication shall be made not less than fifteen (15) days before
127 the final adoption of the budget by the school board. If no
128 newspaper is published in the school district, then the notice
129 shall be published in a newspaper having a general circulation in
130 the school district. If at any time before the adoption of the
131 budget a petition signed by not less than twenty percent (20%) or
132 fifteen hundred (1500), whichever is less, of the registered,
133 qualified electors of the school district is filed with the school
134 board requesting that a referendum be called on the question of
135 exceeding the next preceding fiscal year's ad valorem tax effort
136 in dollars by more than four percent (4%), then the school board
137 shall adopt, not later than the next regular meeting, a resolution
138 calling a referendum to be held within the school district upon



the question. The referendum shall be called and held, and notice thereof shall be given, in the same manner provided for in subsection (2) of this section. 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 registered, qualified electors of the school district who vote in the referendum vote in favor of the question, then the increase requested by the school board and approved by the levying authority shall be approved. For the purposes of this subsection, the revenue sources excluded from the increase limitation under Section 37-57-107 also shall be excluded from the limitation described in this subsection in the same manner as they are excluded under Section 37-57-107. Provided, however, that any increases requested by the school board as a result of the required local contribution to the Mississippi Adequate Education Program, as certified to the local school district by the State Board of Education under Section 37-151-7(2), Mississippi Code of 1972, shall not be subject to the four percent (4%) and/or seven percent (7%) tax increase limitations provided in this section and shall not be subject to approval by the levying authority.

(b) In addition to the provisions of paragraph (a) of this subsection (3), in the case of a school district in conservatorship, if the millage rate necessary to generate funds equal to the dollar amount requested by the school board is equal to fifty-five (55) mills or less, but the dollar amount requested



164 by the school board exceeds the next preceding fiscal year's ad
165 valorem tax effort in dollars by not more than four percent (4%),
166 the levying authority may approve or disapprove, in full or in
167 part, the dollar amount requested by the school board. If any
168 member of the levying authority is an employee of the school
169 district, such person shall recuse himself or herself from voting
170 on the question of the dollar amount requested by the school
171 board.

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

187 (5) The aggregate receipts from ad valorem taxes levied for
188 school district purposes pursuant to Sections 37-57-1 and



189 37-57-105, excluding collection fees, additional revenue from the
190 ad valorem tax on any newly constructed properties or any existing
191 properties added to the tax rolls or any properties previously
192 exempt which were not assessed in the next preceding year, and
193 amounts received by school districts from the School Ad Valorem
194 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
195 to the increase limitation under this section and Section
196 37-57-107.

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

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

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

206 (b) The lease of property for school purposes, as
207 authorized under the Emergency School Leasing Authority Act of
208 1986 (Sections 37-7-351 through 37-7-359);

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

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



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

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

SECTION 2. 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, * * * may, in its discretion, 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



239 levy an additional amount sufficient to cover anticipated
240 delinquencies and costs of collection so that the net amount of
241 money to be produced by such levy shall be equal to the amount
242 which is requested by said school board and approved by the
243 levying authority. The proceeds of such tax levy, excluding
244 levies for the payment of the principal of and interest on school
245 bonds or notes and excluding levies for costs of collection, shall
246 be placed in the school depository to the credit of the school
247 district and shall be expended in the manner provided by law for
248 the purpose of supplementing teachers' salaries, extending school
249 terms, purchasing furniture, supplies and materials, and for all
250 other lawful operating and incidental expenses of such school
251 district, funds for which are not provided by adequate education
252 program fund allotments.

253 The monies authorized to be received by school districts from
254 the School Ad Valorem Tax Reduction Fund pursuant to Section
255 37-61-35 shall be included as ad valorem tax receipts. The
256 levying authority for the school district, as defined in Section
257 37-57-1, shall reduce the ad valorem tax levy for such school
258 district in an amount equal to the amount distributed to such
259 school district from the School Ad Valorem Tax Reduction Fund each
260 calendar year pursuant to said Section 37-61-35. Such reduction
261 shall not be less than the millage rate necessary to generate a
262 reduction in ad valorem tax receipts equal to the funds
263 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, as approved by the levying authority of each of the counties involved, 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



314 year exceeds the next preceding fiscal year's ad valorem tax
315 effort in dollars by more than four percent (4%) but not more than
316 seven percent (7%), then the school board shall publish notice
317 thereof once each week for at least three (3) consecutive weeks in
318 a newspaper having general circulation in the school district
319 involved, with the first publication thereof to be made not less
320 than fifteen (15) days prior to the final adoption of the budget
321 by the school board. If at any time prior to said adoption a
322 petition signed by not less than twenty percent (20%) or fifteen
323 hundred (1500), whichever is less, of the qualified electors of
324 the school district involved shall be filed with the school board
325 requesting that an election be called on the question of exceeding
326 the next preceding fiscal year's ad valorem tax effort in dollars
327 by more than four percent (4%) but not more than seven percent
328 (7%), then the school board shall, not later than the next regular
329 meeting, adopt a resolution calling an election to be held within
330 such school district upon such question. The election shall be
331 called and held, and notice thereof shall be given, in the same
332 manner for elections upon the questions of the issuance of the
333 bonds of school districts, and the results thereof shall be
334 certified to the school board. The ballot shall contain the
335 language "For the School Tax Increase Over Four Percent (4%)" and
336 "Against the School Tax Increase Over Four Percent (4%)." If a
337 majority of the qualified electors of the school district who
338 voted in such election shall vote in favor of the question, then



the stated increase requested by the school board shall be approved. In addition, in the case of a school district in conservatorship, 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 not more than four percent (4%), the levying authority may approve or disapprove, in full or in part, the request for the ad valorem tax effort. If any member of such levying authority is an employee of the school district, that person shall recuse himself or herself from voting on the question of the request for ad valorem tax effort. 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. 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."

AMEND title to conform.

