

By: Senator(s) DeBar

To: Education

SENATE BILL NO. 2173

1 AN ACT TO AMEND SECTIONS 37-57-104 AND 37-57-105, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE A SCHOOL BOARD TO OBTAIN APPROVAL FROM
3 ITS LEVYING AUTHORITY BEFORE PUBLISHING NOTICE CALLING FOR AN
4 ELECTION ON THE QUESTION OF AN AD VALOREM TAX INCREASE OVER 4% FOR
5 SCHOOLS; AND FOR RELATED PURPOSES.

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

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

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



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

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

39 When a referendum has been called, notice of the referendum
40 shall be published at least five (5) days per week, unless the
41 only newspaper published in the school district is published less
42 than five (5) days per week, for at least three (3) consecutive
43 weeks, in at least one (1) newspaper published in the school
44 district. The notice shall be no less than one-fourth (1/4) page



in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed for the referendum, and the last publication shall be made not more than seven (7) days before that date. If no newspaper is published in the school district, then the notice shall be published in a newspaper having a general circulation in the school district. The referendum shall be held, as far as is practicable, in the same manner as other referendums and elections are held in the county or municipality. At the referendum, all registered, qualified electors of the school district may vote. The ballots used at the referendum shall have printed thereon a brief statement of the amount and purpose of the increased tax levy and the words "FOR INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED) 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



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

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

92 (b) However, if a levying authority is levying in
93 excess of fifty-five (55) mills on July 1, 1997, the levying
94 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.

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

(3) 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 by the school board 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%) (as provided for under subsection (4) of this section), then the school board, after obtaining approval from the levying authority, shall publish notice thereof at least five (5) days per week, unless the only newspaper published in the school district is published less than five (5)



120 days per week, for at least three (3) consecutive weeks in a
121 newspaper published in the school district. The notice shall be
122 no less than one-fourth (1/4) page in size, and the type used
123 shall be no smaller than eighteen (18) point and surrounded by a
124 one-fourth-inch solid black border. The notice may not be placed
125 in that portion of the newspaper where legal notices and
126 classified advertisements appear. The first publication shall be
127 made not less than fifteen (15) days before the final adoption of
128 the budget by the school board. If no newspaper is published in
129 the school district, then the notice shall be published in a
130 newspaper having a general circulation in the school district. If
131 at any time before the adoption of the budget a petition signed by
132 not less than twenty percent (20%) or fifteen hundred (1500),
133 whichever is less, of the registered, qualified electors of the
134 school district is filed with the school board requesting that a
135 referendum be called on the question of exceeding the next
136 preceding fiscal year's ad valorem tax effort in dollars by more
137 than four percent (4%), then the school board shall adopt, not
138 later than the next regular meeting, a resolution calling a
139 referendum to be held within the school district upon the
140 question. The referendum shall be called and held, and notice
141 thereof shall be given, in the same manner provided for in
142 subsection (2) of this section. The ballot shall contain the
143 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
144 "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 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 total funding formula as required by Sections 37-151-200 through 37-151-215, as certified to the local school district by the State Board of Education under Section 37-151-211, shall not be subject to the four percent (4%) and/or seven percent (7%) tax increase limitations provided in this section.

(4) 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 by the school board exceeds the seven percent (7%) increase limitation provided for in Section 37-57-107, the school board may exceed the seven percent (7%) increase limitation only after the school board has determined the need for additional revenues and three-fifths (3/5) of the registered, qualified electors voting in a referendum called by the levying authority have voted in favor of the increase. The notice and manner of holding the referendum shall be as prescribed in subsection (2) of this section for a



referendum on the question of increasing the millage rate in school districts levying more than fifty-five (55) mills for school district purposes.

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

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

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

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

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



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

(d) The issuance of promissory notes in the event of a shortfall of ad valorem taxes and/or revenue from local sources, 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 and any charter schools located in the 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 required for the support of the total funding formula as required by Sections



37-151-200 through 37-151-215 in such school district under Sections 37-57-1 and 37-151-211. However, 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 and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by the school board. 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 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.

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 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. The millage levy certified by the State Board of Education as the minimum tax levy 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.

The State Department of Education shall calculate a local pro rata amount for the aggregate receipts of the tax levied in this section by dividing the aggregate receipts by the sum of the school district's net enrollment, as determined under Section 37-151-211, and the net enrollment of any charter school students who reside in the district.

(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



295 this section and Section 37-57-1 shall be subject to the increased
296 limitation under Section 37-57-107; however, if the ad valorem tax
297 effort in dollars requested by the school district for the fiscal
298 year exceeds the next preceding fiscal year's ad valorem tax
299 effort in dollars by more than four percent (4%) but not more than
300 seven percent (7%), then the school board, after obtaining
301 approval from the levying authority, shall publish notice thereof
302 once each week for at least three (3) consecutive weeks in a
303 newspaper having general circulation in the school district
304 involved, with the first publication thereof to be made not less
305 than fifteen (15) days prior to the final adoption of the budget
306 by the school board. If at any time prior to the adoption a
307 petition signed by not less than twenty percent (20%) or fifteen
308 hundred (1500), whichever is less, of the qualified electors of
309 the school district involved shall be filed with the school board
310 requesting that an election be called on the question of exceeding
311 the next preceding fiscal year's ad valorem tax effort in dollars
312 by more than four percent (4%) but not more than seven percent
313 (7%), then the school board shall, not later than the next regular
314 meeting, adopt a resolution calling an election to be held within
315 such school district upon such question. The election shall be
316 called and held, and notice thereof shall be given, in the same
317 manner for elections upon the questions of the issuance of the
318 bonds of school districts, and the results thereof shall be
319 certified to the school board. The ballot shall contain the



320 language "For the School Tax Increase Over Four Percent (4%)" and
321 "Against the School Tax Increase Over Four Percent (4%)." If a
322 majority of the qualified electors of the school district who
323 voted in such election shall vote in favor of the question, then
324 the stated increase requested by the school board shall be
325 approved. For the purposes of this paragraph, the revenue sources
326 excluded from the increased limitation under Section 37-57-107
327 shall also be excluded from the limitation described herein in the
328 same manner as they are excluded under Section 37-57-107.

329 **SECTION 3.** This act shall take effect and be in force from
330 and after July 1, 2025.

