

By: Representative Moore

To: Education

HOUSE BILL NO. 79

1 AN ACT TO AMEND SECTIONS 37-57-104, 37-57-105 AND 37-57-107,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THE LOCAL LEVYING AUTHORITY
3 FOR A SCHOOL DISTRICT WITH THE AUTHORITY TO EXERCISE VETO POWER
4 OVER A SCHOOL BOARD'S REQUEST TO INCREASE AD VALOREM TAXES LEVIED
5 FOR SCHOOL DISTRICT PURPOSES; 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 * * * may veto the request for the ad valorem
18 tax effort or determine the millage rate necessary to generate
19 funds equal to the dollar amount requested by the school board.



20 * * * If the millage rate necessary to generate funds equal to
21 the dollar amount requested by the school board is greater
22 than * * * the millage then being levied * * * under the school
23 board's order requesting the ad valorem tax effort for the
24 currently existing fiscal year is not vetoed, then the levying
25 authority shall call a referendum on the question of exceeding,
26 during the next fiscal year, the then existing millage rate being
27 levied for school district purposes in accordance with Section
28 37-57-107. * * *

29 * * *

30 (* * * 2) If the levying authority for any school district
31 lawfully has decreased the millage levied for school district
32 purposes, but * * * later determines that there is a need to
33 increase the millage rate due to a disaster in which the Governor
34 has declared a disaster emergency or the President of the United
35 States has declared an emergency or major disaster, then the
36 levying authority may increase the millage levied for school
37 district purposes up to an amount that does not exceed the millage
38 rate in any one (1) of the immediately preceding ten (10) fiscal
39 years without any referendum that otherwise would be required
40 under this * * * section or Section 37-57-107.

41 * * *

42 (* * * 3) The aggregate receipts from ad valorem taxes
43 levied for school district purposes * * * under Sections 37-57-1
44 and 37-57-105, excluding collection fees, additional revenue from



45 the ad valorem tax on any newly constructed properties or any
46 existing properties added to the tax rolls or any properties
47 previously exempt which were not assessed in the next preceding
48 year, and amounts received by school districts from the School Ad
49 Valorem Tax Reduction Fund * * * under Section 37-61-35, shall be
50 subject to the increase limitation under this section and Section
51 37-57-107.

52 * * *

53 (* * *4) * * * This section shall not be construed to
54 affect in any manner the authority of school boards to levy
55 millage for the following purposes:

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

59 (b) The lease of property for school purposes, as
60 authorized under the Emergency School Leasing Authority Act of
61 1986 (Sections 37-7-351 through 37-7-359);

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

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

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



69 Any millage levied for the purposes specified in this
70 subsection shall be excluded from the * * * increase limitation
71 established under this section.

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

74 37-57-105. (1) In addition to the taxes levied under
75 Section 37-57-1, the levying authority for the school district, as
76 defined in Section 37-57-1, upon receipt of a certified copy of an
77 order adopted by the school board of the school district
78 requesting an ad valorem tax effort in dollars for the support of
79 the school district, shall, at the same time and in the same
80 manner as other ad valorem taxes are levied, veto the request for
81 the ad valorem tax effort or levy an annual ad valorem tax in the
82 amount fixed in * * * the order subject to the increase limitation
83 prescribed in Section 37-57-107, upon all of the taxable property
84 of * * * the school district, which shall not be less than the
85 millage rate certified by the State Board of Education as the
86 uniform minimum school district ad valorem tax levy for the
87 support of the adequate education program in * * * the school
88 district under Section 37-57-1. * * * However, * * * any school
89 district levying less than the uniform minimum school district ad
90 valorem tax levy on July 1, 1997, shall only be required to
91 increase its local district maintenance levy in four (4) mill
92 annual increments in order to attain * * * the millage
93 requirements. In making * * * the levy, the levying authority



94 shall levy an additional amount sufficient to cover anticipated
95 delinquencies and costs of collection so that the net amount of
96 money to be produced by * * * the levy shall be equal to the
97 amount * * * that is requested by * * * the school board. The
98 proceeds of * * * the tax levy, excluding levies for the payment
99 of the principal of and interest on school bonds or notes and
100 excluding levies for costs of collection, shall be placed in the
101 school depository to the credit of the school district and shall
102 be expended in the manner provided by law for the purpose of
103 supplementing teachers' salaries, extending school terms,
104 purchasing furniture, supplies and materials, and for all other
105 lawful operating and incidental expenses of * * * the school
106 district, funds for which are not provided by adequate education
107 program fund allotments.

108 The monies authorized to be received by school districts from
109 the School Ad Valorem Tax Reduction Fund * * * under Section
110 37-61-35 shall be included as ad valorem tax receipts. The
111 levying authority for the school district, as defined in Section
112 37-57-1, shall reduce the ad valorem tax levy for * * * the school
113 district in an amount equal to the amount distributed to * * * the
114 school district from the School Ad Valorem Tax Reduction Fund each
115 calendar year * * * under Section 37-61-35. * * *

116 In any county where there is located a nuclear generating
117 power plant on which a tax is assessed under Section
118 27-35-309(3), * * * the required levy and revenue produced thereby



119 may be reduced by the levying authority in an amount in proportion
120 to a reduction in the base revenue of any such county from the
121 previous year. * * * The reduction shall be allowed only if the
122 reduction in base revenue equals or exceeds five percent (5%).
123 "Base revenue" shall mean the revenue received by the county from
124 the ad valorem tax levy plus the revenue received by the county
125 from the tax assessed under Section 27-35-309(3) and authorized to
126 be used for any purposes for which a county is authorized by law
127 to levy an ad valorem tax. For purposes of determining if the
128 reduction equals or exceeds five percent (5%), a levy of millage
129 equal to the * * * previous year's millage shall be hypothetically
130 applied to the current year's ad valorem tax base to determine the
131 amount of revenue to be generated from the ad valorem tax levy.
132 For the purposes of this section and Section 37-57-107, the
133 portion of the base revenue used for the support of any school
134 district shall be deemed to be the aggregate receipts from ad
135 valorem taxes for the support of any school district. This
136 paragraph shall apply to taxes levied for the 1987 fiscal year and
137 for each fiscal year thereafter. If the Mississippi Supreme Court
138 or another court finally adjudicates that the tax levied under
139 Section 27-35-309(3) is unconstitutional, then this paragraph
140 shall stand repealed.

141 (2) When the tax is levied upon the territory of any school
142 district located in two (2) or more counties, the order of the
143 school board requesting the levying of * * * the tax shall be



144 certified to the levying authority of each of the counties
145 involved, and each of the levying authorities shall levy the tax
146 in the manner specified herein. The taxes so levied shall be
147 collected by the tax collector of the levying authority involved
148 and remitted by the tax collector to the school depository of the
149 home county to the credit of the school district involved as
150 provided above, except that taxes for collection fees may be
151 retained by the levying authority for deposit into its general
152 fund.

153 * * *

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

156 37-57-107. (1) Except as otherwise authorized under an
157 election held under subsection (2) of this section, beginning with
158 the tax levy for the * * * 2014 fiscal year * * * , the aggregate
159 receipts from taxes levied for school district purposes * * *
160 under Sections 37-57-105 and 37-57-1, excluding collection fees,
161 shall not exceed the aggregate receipts from those sources
162 during * * * the immediately preceding * * * fiscal years * * * .
163 For the purpose of this limitation, the term "aggregate receipts,"
164 when used in connection with the amount of funds generated in a
165 preceding fiscal year shall not include excess receipts required
166 by law to be deposited into a special account. However, the term
167 "aggregate receipts" includes any receipts required by law to be
168 paid to a charter school. The additional revenue from the ad



169 valorem tax on any newly constructed properties or any existing
170 properties added to the tax rolls or any properties previously
171 exempt which were not assessed in the next preceding year may be
172 excluded from the * * * limitation set forth * * * in this
173 section. Taxes levied for payment of principal of and interest on
174 general obligation school bonds issued heretofore or hereafter
175 shall be excluded from the * * * limitation set forth * * * in
176 this section. Any additional millage levied to fund any new
177 program mandated by the Legislature shall be excluded from the
178 limitation for the first year of the levy and included
179 within * * * the limitation in any year thereafter. For the
180 purposes of this section, the term "new program" shall include,
181 but shall not be limited to, (a) * * * any additional millage
182 levied and the revenue generated therefrom, which is excluded from
183 the limitation for the first year of the levy, to support
184 the * * * Early Childhood Education Program, which shall be
185 specified on the minutes of the school board and of the governing
186 body making * * * the tax levy; (b) any additional millage levied
187 and the revenue generated therefrom, which shall be excluded from
188 the limitation for the first year of the levy, for the purpose of
189 generating additional local contribution funds required for the
190 adequate education program for the 2003 fiscal year and for each
191 fiscal year thereafter under Section 37-151-7(2); and (c) any
192 additional millage levied and the revenue generated therefrom
193 which shall be excluded from the limitation for the first year of



194 the levy, for the purpose of support and maintenance of any
195 agricultural high school * * * that has been transferred to the
196 control, operation and maintenance of the school board by the
197 board of trustees of the community college district under * * *
198 Section 37-29-272.

199 (2) * * * If a school board has determined the need for
200 additional revenues * * * or if the millage rate necessary to
201 generate funds equal to the dollar amount requested by a school
202 board is greater than the millage then being levied for the
203 current fiscal year, the school board may adopt an order
204 requesting that the levying authority, as defined in Section
205 37-57-1, call and hold an election on the question of * * *
206 exceeding the limitation prescribed in this section. However,
207 before the order requesting the election is adopted, the school
208 board shall advertise its intention to do so and shall hold a
209 public meeting on the proposed increase in accordance with Section
210 27-39-207. The limitation may be increased only if three-fifths
211 (3/5) of those voting in the election shall vote * * * in favor of
212 the question of the proposed increase. The * * * , notice and
213 manner of holding the election shall be as prescribed by law for
214 the holding of elections for the issuance of bonds by the * * *
215 school boards. The ballot shall contain the language "For the
216 School Tax Increase" and "Against the School Tax Increase" and
217 shall state the specific amount of the proposed tax increase. The
218 results of the election shall be certified to the school board.



219 Revenues collected for the fiscal year in excess of the * * *
220 limitation * * * as a result of an election shall be included in
221 the tax base for the purpose of determining aggregate receipts for
222 which the * * * limitation applies for * * * later fiscal years.

223 (3) Except as otherwise provided for excess revenues
224 generated * * * as a result of an election, if revenues collected
225 as the result of the taxes levied for the fiscal year * * * under
226 this section and Section 37-57-1 exceed the * * * limitation, then
227 it shall be the mandatory duty of the school board of the school
228 district to deposit * * * the excess receipts over and above
229 the * * * limitation into a special account and credit it to the
230 fund for which the levy was made. It will be the further duty
231 of * * * the board to hold * * * the excess funds and invest the
232 same as authorized by law. * * * The excess funds shall be
233 calculated in the budgets for the school districts for the purpose
234 for which * * * those levies were made, for the succeeding fiscal
235 year. Taxes imposed for the succeeding year shall be reduced by
236 the amount of excess funds available. Under no circumstances
237 shall * * * the excess funds be expended during the fiscal year in
238 which * * * the excess funds are collected.

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



243 (5) Beginning with the 2013-2014 school year, each school
244 district in which a charter school is located shall pay to the
245 charter school an amount for each student enrolled in the charter
246 school equal to the ad valorem taxes levied per pupil for the
247 support of the school district in which the charter school is
248 located. The pro rata ad valorem taxes to be transferred to the
249 charter school must include all levies for the support of the
250 school district under Sections 37-57-1 (local contribution to the
251 adequate education program) and 37-57-105 (school district
252 operational levy) but may not include any taxes levied for the
253 retirement of school district bonded indebtedness or short-term
254 notes or any taxes levied for the support of vocational-technical
255 education programs. Payments made * * * under this subsection by
256 a school district to a charter school must be made before the
257 expiration of three (3) business days after the funds are
258 distributed to the school district.

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

262 **SECTION 4.** This act shall take effect and be in force from
263 and after July 1, 2014.

