

By: Representative Moore

To: Education

HOUSE BILL NO. 91

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE LEVYING AUTHORITY FOR A SCHOOL DISTRICT TO VETO
3 THE SCHOOL BOARD'S REQUEST FOR AN INCREASE IN THE AD VALOREM TAX
4 DOLLARS UP TO SEVEN PERCENT; TO AMEND SECTION 37-57-105,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
6 ACT; AND FOR RELATED PURPOSES.

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

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

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



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

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

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



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

69 If a majority of the registered, qualified electors of the
70 school district who vote in the referendum vote in favor of the



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

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

93 * * *

94 (* * *b) If the levying authority for any school
95 district lawfully has decreased the millage levied for school



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

105 (3) **Millage requests equal to or less than fifty-five (55)**
106 **mills, up to seven percent (7%) increase.** If the millage rate
107 necessary to generate funds equal to the dollar amount requested
108 by the school board is equal to fifty-five (55) mills or less, but
109 the dollar amount requested by the school board exceeds the next
110 preceding fiscal year's ad valorem tax effort in dollars by * * *
111 an amount not more than seven percent (7%) (as provided for under
112 subsection (4) of this section), the levying authority for the
113 school district, in its discretion, shall vote for or shall vote
114 against the school board's request for the increased tax levy. If
115 the levying authority does not veto the request for the increased
116 tax levy, then the school board shall publish notice * * * of the
117 increase at least five (5) days per week, unless the only
118 newspaper published in the school district is published less than
119 five (5) days per week, for at least three (3) consecutive weeks
120 in a newspaper published in the school district. The notice shall



121 be no less than one-fourth (1/4) page in size, and the type used
122 shall be no smaller than eighteen (18) point and surrounded by a
123 one-fourth-inch solid black border. The notice may not be placed
124 in that portion of the newspaper where legal notices and
125 classified advertisements appear. The first publication shall be
126 made not less than fifteen (15) days before the final adoption of
127 the budget by the school board. If no newspaper is published in
128 the school district, then the notice shall be published in a
129 newspaper having a general circulation in the school district. If
130 at any time before the adoption of the budget a petition signed by
131 not less than twenty percent (20%) or fifteen hundred (1500),
132 whichever is less, of the registered, qualified electors of the
133 school district is filed with the school board requesting that a
134 referendum be called on the question of exceeding the next
135 preceding fiscal year's ad valorem tax effort in dollars by * * *
136 an amount not more than seven percent (7%), 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
139 the question. The referendum shall be called and held, and notice
140 thereof shall be given, in the same manner provided for in
141 subsection (2) of this section. The ballot shall contain the
142 language "FOR THE SCHOOL TAX INCREASE * * *" and "AGAINST THE
143 SCHOOL TAX INCREASE * * *." If a majority of the registered,
144 qualified electors of the school district who vote in the
145 referendum vote in favor of the question, then the increase



146 requested by the school board shall be approved. For the purposes
147 of this subsection, the revenue sources excluded from the increase
148 limitation under Section 37-57-107 also shall be excluded from the
149 limitation described in this subsection in the same manner as they
150 are excluded under Section 37-57-107. * * * However, * * * any
151 increases requested by the school board as a result of the
152 required local contribution to the Mississippi Adequate Education
153 Program, as certified to the local school district by the State
154 Board of Education under Section 37-151-7(2), Mississippi Code of
155 1972, shall not be subject to the * * * tax increase limitations
156 provided in this section.

157 (4) **Millage requests equal to or less than fifty-five (55)**
158 **mills, exceeding seven percent (7%) increase.** If the millage rate
159 necessary to generate funds equal to the dollar amount requested
160 by the school board is equal to fifty-five (55) mills or less, but
161 the dollar amount requested by the school board exceeds the seven
162 percent (7%) increase limitation provided for in Section
163 37-57-107, the school board may exceed the seven percent (7%)
164 increase limitation only after the school board has determined the
165 need for additional revenues and three-fifths (3/5) of the
166 registered, qualified electors voting in a referendum called by
167 the levying authority have voted in favor of the increase. The
168 notice and manner of holding the referendum shall be as prescribed
169 in subsection (2) of this section for a referendum on the question



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

172 (5) The aggregate receipts from ad valorem taxes levied for
173 school district purposes pursuant to Sections 37-57-1 and
174 37-57-105, excluding collection fees, additional revenue from the
175 ad valorem tax on any newly constructed properties or any existing
176 properties added to the tax rolls or any properties previously
177 exempt which were not assessed in the next preceding year, and
178 amounts received by school districts from the School Ad Valorem
179 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
180 to the increase limitation under this section and Section
181 37-57-107.

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

185 (7) * * * This section shall not be construed to affect in
186 any manner the authority of school boards to levy millage for the
187 following purposes:

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

191 (b) The lease of property for school purposes, as
192 authorized under the Emergency School Leasing Authority Act of
193 1986 (Sections 37-7-351 through 37-7-359);



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

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

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

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

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

206 37-57-105. (1) In addition to the taxes levied under
207 Section 37-57-1, the levying authority for the school district, as
208 defined in Section 37-57-1, upon receipt of a certified copy of an
209 order adopted by the school board of the school district
210 requesting an ad valorem tax effort in dollars for the support of
211 the school district, shall, at the same time and in the same
212 manner as other ad valorem taxes are levied, levy an annual ad
213 valorem tax in the amount fixed in such order upon all of the
214 taxable property of such school district, which shall not be less
215 than the millage rate certified by the State Board of Education as
216 the uniform minimum school district ad valorem tax levy for the
217 support of the adequate education program in such school district
218 under Section 37-57-1. * * * However, * * * any school district



219 levying less than the uniform minimum school district ad valorem
220 tax levy on July 1, 1997, shall only be required to increase its
221 local district maintenance levy in four (4) mill annual increments
222 in order to attain such millage requirements. In making such
223 levy, the levying authority shall levy an additional amount
224 sufficient to cover anticipated delinquencies and costs of
225 collection so that the net amount of money to be produced by * * *
226 the levy shall be equal to the amount which is requested by * * *
227 the school board. The proceeds of * * * the tax levy, excluding
228 levies for the payment of the principal of and interest on school
229 bonds or notes and excluding levies for costs of collection, shall
230 be placed in the school depository to the credit of the school
231 district and shall be expended in the manner provided by law for
232 the purpose of supplementing teachers' salaries, extending school
233 terms, purchasing furniture, supplies and materials, and for all
234 other lawful operating and incidental expenses of * * * the school
235 district, funds for which are not provided by adequate education
236 program fund allotments.

237 The monies authorized to be received by school districts from
238 the School Ad Valorem Tax Reduction Fund pursuant to Section
239 37-61-35 shall be included as ad valorem tax receipts. The
240 levying authority for the school district, as defined in Section
241 37-57-1, shall reduce the ad valorem tax levy for * * * the school
242 district in an amount equal to the amount distributed to * * * the
243 school district from the School Ad Valorem Tax Reduction Fund each



244 calendar year * * * as prescribed under Section 37-61-35. * * *
245 The reduction shall not be less than the millage rate necessary to
246 generate a reduction in ad valorem tax receipts equal to the funds
247 distributed to such school district from the School Ad Valorem Tax
248 Reduction Fund pursuant to Section 37-61-35. * * *

249 In any county where there is located a nuclear generating
250 power plant on which a tax is assessed under Section
251 27-35-309(3), * * * the required levy and revenue produced thereby
252 may be reduced by the levying authority in an amount in proportion
253 to a reduction in the base revenue of any such county from the
254 previous year. * * * The reduction shall be allowed only if the
255 reduction in base revenue equals or exceeds five percent (5%).
256 "Base revenue" shall mean the revenue received by the county from
257 the ad valorem tax levy plus the revenue received by the county
258 from the tax assessed under Section 27-35-309(3) and authorized to
259 be used for any purposes for which a county is authorized by law
260 to levy an ad valorem tax. For purposes of determining if the
261 reduction equals or exceeds five percent (5%), a levy of millage
262 equal to the * * * preceding year's millage shall be
263 hypothetically applied to the current year's ad valorem tax base
264 to determine the amount of revenue to be generated from the ad
265 valorem tax levy. For the purposes of this section and Section
266 37-57-107, the portion of the base revenue used for the support of
267 any school district shall be deemed to be the aggregate receipts
268 from ad valorem taxes for the support of any school district.



269 This paragraph shall apply to taxes levied for the 1987 fiscal
270 year and for each fiscal year thereafter. If the Mississippi
271 Supreme Court or another court finally adjudicates that the tax
272 levied under Section 27-35-309(3) is unconstitutional, then this
273 paragraph shall stand repealed.

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

285 (3) The aggregate receipts from ad valorem taxes levied for
286 school district purposes, excluding collection fees, pursuant to
287 this section and Section 37-57-1 shall be subject to the increased
288 limitation under Section 37-57-107 * * *.

289 **SECTION 3.** This act shall take effect and be in force from
290 and after July 1, 2014.

