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Chapter No. 449
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GP / EW

HOUSE BILL NO. 37

Originated in House



Clerk

HOUSE BILL NO. 37

AN ACT TO AMEND SECTION 27-39-203, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DURING THE FISCAL YEAR IN WHICH A COUNTY HAS COMPLETED A COUNTYWIDE REAPPRAISAL OF THE VALUATION OF THE PROPERTY IN THE COUNTY THAT RESULTS IN AN INCREASE IN THE ASSESSED VALUATION OF THE PROPERTY, EACH TAXING UNIT IN THE COUNTY SHALL PUBLISH IN THE NOTICE REQUIRED TO BE PUBLISHED BY THIS SECTION THE LOWER MILLAGE RATE THAT WOULD PRODUCE THE SAME AMOUNT OF REVENUE FROM AD VALOREM TAXATION ON PROPERTY OF THE TAXING UNIT THAT WAS PRODUCED IN THE FISCAL YEAR BEFORE THE PROPERTY OF THE TAXING UNIT WAS REAPPRAISED; TO AMEND SECTION 27-33-41, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DEPARTMENT OF REVENUE FROM PAYING ANY REIMBURSEMENT TO A TAXING UNIT FOR ANNUAL TAX LOSSES FROM HOMESTEAD EXEMPTION UNTIL AFTER THE TAXING UNIT HAS COMPLIED WITH THE NOTICE REQUIREMENT OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-39-203, Mississippi Code of 1972, is amended as follows:

27-39-203. (1) The governing body of all taxing entities shall hold a public hearing at which time the budget and tax levies for the upcoming fiscal year will be considered.

(2) The public hearing shall be advertised in accordance with the following procedures. The advertisement 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 advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. It is the intent of the Legislature that the advertisement appears in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. It is further the intent of the Legislature that the newspaper selected be one of general interest and readership in the community, and not one of limited subject matter. The advertisement shall be run once each week for the two (2) weeks preceding the adoption of the final budget. The advertisement shall state that the taxing entity will meet on a certain day, time and place fixed in the advertisement, which shall be not less than seven (7) days after the day the first advertisement is published, for the purpose of hearing comments regarding the proposed budget and proposed tax levies. Any increase in the projected budget revenues or any increase in the millage rate over the current fiscal year shall be explained by the governing body giving the reasons for the proposed increase. A taxing entity collecting taxes in more than one (1) county shall make the required advertisement by publication in each county where the taxing entity collects taxes.

(3) All hearings shall be open to the public. The governing body of the taxing entity shall permit all interested parties

desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(4) Each taxing entity shall notify the county or municipal governing body of the date, time and place of its public hearing. No taxing entity may schedule its hearing at the same time as another overlapping taxing entity in the same county, but all taxing entities in which the power to set tax levies is vested in the same governing authority may consolidate the required hearings into one (1) hearing. The county or municipal governing body shall resolve any conflicts in hearing dates and times after consultation with each affected taxing entity.

(5) If the proposed tax levies are not in excess of the current fiscal year's certified tax rate, the advertisement shall be in the following form:

"NOTICE OF A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR THE UPCOMING FISCAL YEAR FOR -- (Name of the taxing entity)

The (name of the taxing entity) will hold a public hearing on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of \$_____. (___ percent) or \$_____ of such revenue is obtained through ad valorem taxes. For the next fiscal year, the proposed budget has total projected

revenue of \$_____. Of that amount, (____ percent) or \$_____, is proposed to be financed through a total ad valorem tax levy.

The decision to not increase the ad valorem tax millage rate for fiscal year (insert the year) above the current fiscal year's ad valorem tax millage rate means you will not pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property, unless the assessed value of your property has increased for fiscal year (insert the year).

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed budget and tax levies for fiscal year (insert the year) and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(6) (a) If the proposed tax levies for the upcoming fiscal year shall exceed the current fiscal year's certified tax rate, the advertisement shall be in the following form:

"NOTICE OF A TAX INCREASE AND A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR -- (Name of the taxing entity)

The (name of the taxing entity) will hold a public hearing on a proposed ad valorem tax revenue increase for fiscal year (insert the year) and on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of \$_____. (___ percent) or \$_____ of such revenue is obtained through ad valorem taxes. For next fiscal year, the proposed budget has total projected revenue of \$_____. Of that amount, (___ percent) or \$_____ is proposed to be financed through a total ad valorem tax levy.

For next fiscal year, the (name of the taxing entity) plans to increase your ad valorem tax millage rate by _____ mills from _____ mills to _____ mills. This increase means that you will pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property.

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed ad valorem tax increase, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(b) If an increase in the tax levy is necessary only because of an increased funding request made by a county district or any other cost which by law the county must fund and may not decrease in amount, then the notice required by this subsection shall be used and the county shall explain, in clear language in the notice, that the increase in the tax levy is necessary only because of the increased funding request of the county district or other cost incurred.

(7) During the fiscal year in which a county has completed a countywide reappraisal of the valuation of the property in the

county that has been approved by the Department of Revenue and results in an increase in the assessed valuation of the property, the governing board of each taxing unit in the county, as defined in Section 27-33-11, shall include in the notice required to be published under this section the lower millage rate that would produce the same amount of revenue from ad valorem taxation on property of the taxing unit that was produced in the fiscal year before the property of the taxing unit was reappraised.

(* * *8) After the hearing has been held in accordance with the above procedures, the governing body of the taxing entity may adopt a resolution levying a tax rate on classes of property designated by Section 112, Mississippi Constitution of 1890, as specified in its advertisement. If the resolution adopting the tax rate is not adopted on the day of the public hearing, the scheduled date, time and place for consideration and adoption of the resolution shall be announced at the public hearing and the governing body shall advertise the date, time and place of the proposed adoption of the resolution in the same manner as provided under subsection (2).

(* * *9) Any governing body of a tax entity shall be prohibited from expending any funds for the applicable fiscal year until it has strictly complied with the advertisement and public hearing requirements set forth in this section.

SECTION 2. Section 27-33-41, Mississippi Code of 1972, is amended as follows:

27-33-41. The administration of this article is hereby vested in the Department of Revenue, and it shall have the power and the authority necessary to secure compliance with its provisions uniformly throughout the state. The department shall, in addition to its general duties of administration of the article, do the specific things set out in this section:

(a) It shall adopt and issue to tax assessors, clerks, boards of supervisors, and all other officers or offices to which this article applies, rules and regulations, not inconsistent with the provisions of the article, affecting the applications and all proceedings, records, hearings and other pertinent subjects, relating to property for which a homestead exemption is claimed; and such rules and regulations shall be observed by such officers, boards and offices, in all respects, and in the performance of any and all duties imposed and powers granted by this article.

(b) It shall prescribe the form of and furnish suitable application forms, or blanks, for the purpose of carrying out the provisions of this article, and shall deliver to each assessor a sufficient number of such blanks for the use of homeowners.

(c) It shall have authority and it shall be its duty to examine all applications for homestead exemption allowed under this article, to determine if the provisions of the article have been complied with by the applicant, the tax assessor, the board of supervisors, the clerk, and all others, and if the exemptions have been lawfully allowed; and it shall reject for reimbursement

of tax loss any exemption allowed by the board which does not conform to the requirements of law in every substantial particular or for which no application has been sent to the department as required in Section 27-33-35(a), and shall correct or have corrected any errors; and the tax loss to be reimbursed shall be adjusted to accord with the findings of the department.

When an application is rejected, notice thereof shall be given as provided by this section, and the acceptance or objection by the board shall be determined as provided by Section 27-33-37(k).

(d) It shall have authority to examine the assessment rolls, any account register, file, document, record or paper relating to receipts and disbursements of the taxing unit or any and all matters relating to homestead exemptions allowed and tax losses to be reimbursed. It shall also have the authority to examine any report or return received by the department to verify any claims made on homestead exemption applications.

(e) It shall have the authority to summon and examine under oath any officer or other person with respect to any matter bearing upon the exemption of a home or homes, and to do any and all other things necessary and proper to ascertain the facts with respect to any application or claim for homestead exemption; and it may require the board to furnish any information or document necessary to the performance of its duties or the correct

determination of any question before it to which the board is a party.

(f) The reimbursement for the annual tax loss to the taxing units shall be due and payable in two (2) installments; the first on March 1 and the second on September 1 of each year. The clerk's certificate of tax loss when in accord with the supplemental roll and the applications as filed with the department shall constitute a request by the board for reimbursement of the tax loss. The department shall not pay any reimbursement for annual tax loss to any taxing unit to which Section 27-39-203(7) of this act applies until after the taxing unit has complied with the notice requirement of Section 27-39-203(7) of this act.

(g) It shall, on or before the first day of March each year, certify to the Department of Finance and Administration the amount of the first installment to be paid to each taxing unit in the state, which shall be one-half (1/2) of the amount due, with adjustments, which is the amount of the first installment less any charges against the account and plus any credits by reason of previous charges which have been cancelled. However, if the copy of the county land roll, the supplemental roll and the clerk's certificate of tax loss have not been filed with and approved by the department by February 1, the department shall be allowed thirty (30) days after the filing of the rolls and the said certificate in which to perform the duties hereby imposed.

(h) It shall, on or before the first day of September each year, certify to the Department of Finance and Administration the amount of the second installment to be paid to each taxing unit in the state, which shall be the remainder of the amount due with adjustments, which is an amount equal to the first installment less any charges against the account and plus any credits by reason of previous charges which have been cancelled. Adjustments, either charges or credits, against the amount of tax loss to any taxing unit may be made at any time as provided in * * * paragraph (j) of this section.

(i) In the event an adjustment in the amount of the tax loss has been determined by the department, it shall give notice, in writing, to the board of supervisors, which notice shall be considered by the board at its next meeting, regular, adjourned or special. If the board accepts the adjustment, it shall promptly so advise the department, using such form as may be prescribed and furnished by the department. If the board objects to the adjustment, it shall promptly so advise the department, using such forms as may be prescribed and furnished by the department, stating in detail the grounds for its objection and providing any supporting documentation for its objection. Upon receipt of the board's objection, the department will consider same and determine whether or not the objection is valid. All such matters between the board and the department on this objection may be concluded by correspondence, or by personal appearance of the board, or one or

more of its members, the clerk, or the assessor, or by a representative of the department present at any meeting of the board. If upon consideration of the objection, the department determines that the application for homestead exemption should be allowed; it will reverse the adjustment resulting from the department's rejection of the application and advise the board of this reversal. If upon consideration of the objection, the department determines that it had properly rejected the application for homestead exemption; it shall advise the board that its objection has been denied by the department. Within thirty (30) days from the date of the notice from the department advising the board that its objection had been denied, the board can appeal this denial of the objection by the department to the Board of Tax Appeals. At any hearing on the appeal by the board to the Board of Tax Appeals on the department's denial of the board's objection to the department's rejection of an application for homestead exemption, the decision of the department to reject the homestead exemption application shall be prima facie correct.

(j) It shall be the duty of the department and it shall have authority to charge the account of any taxing unit with amounts of homestead exemption tax loss claimed by the taxing unit in the certificate of tax loss and the supplemental roll and to deduct the amount from subsequent installments, either first or second. Such charges shall be made when homestead exemption applications are rejected, in whole or in part, for reimbursement

of tax loss or when errors are discovered in the supplemental roll or clerk's certificate of tax loss.

(k) The authority of the department to reject an application for reimbursement of tax loss shall not be exercised later than one (1) year after the first day of January of the year next following that in which the application was filed by the applicant; but this limitation shall not apply in cases of fraud, nor where the same person was granted exemption on two (2) separate homes.

Notice of adjustments in tax loss payments and notice of applications rejected shall be given by mail, addressed to the clerk of the board, and the notice directed to the president of the board of supervisors of the county. The date of mailing shall be the date of the notice.

(1) The department shall file and preserve full, complete and accurate records of all tax loss payments and adjustments in tax loss payments made under the provisions of this article, including the certificates of tax loss for a period of three (3) years from the date thereof. The department shall file and preserve for a period of three (3) years all applications for homestead exemption filed with it and copies of all supplemental rolls, counting from the first day of January of the year in which they are required to be executed or made. All records enumerated may be destroyed by the department, when kept for the time required. All other documents, records, papers and correspondence

may be destroyed in accordance with approved record retention schedules.

(m) The department shall, on or before June 1 of any year, pay the second installment, or a part thereof, to any school taxing unit upon submission to the department of proof, in the form of a certificate of necessity, executed by the county superintendent of education for the county general school fund, or for a county school district fund, and by the city superintendent of schools for a municipal separate school district, that there is not sufficient money in the maintenance fund of the taxing unit to pay the salaries of teachers and school bus drivers for the current school term. Such payment shall be made as provided in paragraph (h) of this section.

(n) The county tax collectors shall enter, or cause to be entered, all transactions regarding the titling or registration of vehicles into the statewide telecommunications system in compliance with the provisions of Section 63-21-18. Failure of any tax collector to comply with the provisions of this paragraph shall subject the county to the withholding of reimbursements of homestead exemption tax loss as provided under Section 63-21-18.

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

PASSED BY THE HOUSE OF REPRESENTATIVES
January 22, 2014


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 6, 2014


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR
3/27/14 2:15pm