

Why did you do *that*?

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When she came home from school on November 8 and saw my “I voted” sticker, my 9YO daughter asked what I’d voted for. When I told her I’d voted to raise my taxes, she said, “Why did you do that?”

Triangle residents were asking this same question regarding the ¼ percent sales tax referendum. Once informed that the funds were for public education, they wondered how to be certain when the referendum language makes no mention of any such use. Why would county commissioners do this unless they were leaving themselves a way out? After the election, my neighbor told me she wasn’t sure if the 0.25% sales tax was the one for education, but she voted for it based on the lack of a more definitive referendum in this regard.

It isn’t the county’s fault. The *state* does not permit any language in the referendum designating the funds for any purpose. The ballot must read, “Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other State and local sales and use taxes.”

‘Why, then, could the referendum for an even bigger tax specify that it is for transit?’ you ask definitively.

I share your confusion, and I thought I’d share with you what I’ve learned of this contradiction.

Despite any lip service paid to grass-roots government, North Carolina law doesn’t allow counties to determine their own taxation processes for funding the services they must provide. Instead, the state increasingly micromanages and, as a result, often hinders county governments. This is no better illustrated than by the quarter-cent-sales-tax situation.

In 2007 the NC General Assembly passed ‘landmark’ legislation giving NC counties ‘conditional access’ to one of two new revenue sources: a ¼ cent sales tax increase or a 0.4 percent land transfer tax. Counties do not have to adopt either, but they cannot adopt both. After voters approve an advisory referendum, county commissioners can (but don’t have to) adopt one of these revenue sources.

The fact is that both tax options are hindered. The land transfer tax can’t be applied solely to new development, as preferred by most county residents (see my past article in this regard: http://www.thedurhamnews.com/2010/07/21/202785_who-pays-for-schools.html). And the ¼ cent sales tax referendum is severely restricted in its wording, leaving the public uninformed and/or confused and, thus, more likely to vote no. Furthermore, NC general statutes 105-465 require that the special election (required for this tax) cannot be held “on the date or within 60 days of any biennial election of county officers,” which can’t help but reduce voter turnout and increase county costs associated with the referendum.

Between November 2007 and January 2010, 77 referendums on the ¼ cent sales tax were held in 53 counties. Of these, 18 were approved, and 59 failed. Should we be surprised? Even my nine-year-old sees the ignorance in taxing oneself for no apparent reason.

The state graciously permits each county’s commissioners to pass a resolution designating funds from the ¼ cent tax for specific uses. But voters aren’t looking at this resolution in the voting booth (most don’t even know about it); they are looking at a skeletal referendum that reads like one big loophole.

Just providing county constituents with information detailing the tax's required use for education could be illegal, as the John Locke Foundation insists in a complaint (and records request) sent to Durham Public School's (DPS) on October 31. Opponents argue a DPS flyer with the heading "Quarter Cent Sales Tax = Support for Durham Schools" breaks the state prohibition on using school board funds 'to endorse or oppose a referendum'.

Given the state's deliberate prohibition of transparency in the referendum itself, who can blame DPS for informing county residents of the tax's required use?

State legislation (General Statute 105-487) requires that, during its first five fiscal years, 40% of this tax's revenues (and, after the first five fiscal years, 30%) may only be used "for public school capital outlay purposes ... or to retire any indebtedness incurred by the county for these purposes" (admittedly expenses that the lottery was supposed to cover). Most counties, including Durham, passed resolutions designating virtually all of the revenue for specific public education purposes.

Doesn't this amount to financial support for public schools? Why shouldn't the public be informed of this via the ballot or, at the very least, a flyer? Is the intent to keep the public ignorant and, therefore, unlikely to vote for the tax increase? Without elected officials' and citizens' determination to inform the public of its designated use, this tax doesn't stand a chance anywhere.

What's more, every time a county wants to raise money via sales taxes (or anything other than property taxes), the NC General Assembly must pass legislation specifically enabling them to do so, usually dictating the exact provisions and language involved. Talk about lack of efficiency in government! Enter the transit referendum contradiction.

In 2009, transit, transportation and environmental groups supported State House Bill 148, providing for referenda to fund transit projects using a one-half cent sales tax. Given the many business interests standing to profit from future transit projects, it's no surprise that our state legislators permit this referendum's language to actually inform the public of the tax's designated use for transit.

What *is* somewhat surprising (and pleasantly so) is that Durham citizens beat the odds and voted to support the education sales tax (which is what it clearly is). Perhaps in the future, we can work together to eliminate the state's political micromanagement of our county's powers.