



The MTA had warned that losing the payroll tax, which was ruled constitutional by an appellate court yesterday, might have resulted in cuts to transit services such as New York City's subways.

FILE PHOTO BY ANTHONY LANZILOTE

# Court backs MTA on tax

■ **Appellate** ruling rejects Nassau bid to abolish levy

■ **Says money** is needed to pay for 'essential transit'

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An appellate court ruled yesterday that the MTA payroll tax is constitutional, reversing a lower court judge who ruled for Nassau County in a lawsuit seeking abolition of the tax.

Nassau sued the Metropolitan Transportation Authority in 2010, maintaining that the tax violated the state constitution because it changed the tax policies of individual municipalities for a purpose that did not benefit the entire state. In his August ruling, State Supreme Court Justice R. Bruce Cozzens Jr. agreed.

But the Appellate Division overturned Cozzens' decision yesterday, saying the authority's law governing employer taxes "provides a funding

source for the preservation, operation and improvement of essential transit and transportation services" in the entire MTA region. The tax, therefore, "serves a substantial state concern," the ruling said.

"We maintain the tax is overburdensome and just plain unfair," Nassau County Executive Edward Mangano said in a statement.

The tax was created in 2009 as part of a state bailout of the MTA as it faced a nearly \$2 billion budget gap. The tax charges large employers in the MTA region 34 cents for every \$100 of payroll, while small business owners pay lower rates.

The tax generates about \$1.2 billion in annual revenue for the MTA, the largest public transportation provider in North America. MTA spokesman Aaron Donovan called the system "the backbone of the region's economy" and said he was pleased with the appellate court's decision.

"Removal of the tax's revenues would have had a cata-

strophic impact on the region's 8.5 million daily transit riders," Donovan said in a statement.

The appellate ruling mirrored several others on lawsuits filed by various suburban municipalities looking to abolish the tax, including the towns of Huntington, Brookhaven, Southold and Southampton.

Nassau filed its suit while battling the MTA on how to finance its bus system, which the MTA ran for 37 years, until 2012.

Following Cozzens' ruling, the MTA warned that losing the tax could result in massive service cuts, including on the Long Island Rail Road, that would dwarf any seen previously.

"We wouldn't just be facing cutting weekend service on the West Hempstead Branch. We'd possibly face cutting off the West Hempstead Branch," William Henderson, executive director of the MTA's Permanent Citizens Advisory Committee, said yesterday. "The MTA needs that money."

With Robert Brodsky