



NEW YORK STATE SENATOR

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From the Desk of Senator Jack M. Martins

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The All-You-Can-Eat Buffet

Congratulations taxpayers. I have good news. The New York State Supreme Court ruled the MTA Payroll Tax that drained \$1.4 billion from New York's downstate economy is unconstitutional. Unfortunately, NYC-based interests are already working to overturn the ruling so I want to share some facts before waters are muddied.

It was 2009 when the former administration decided to again bail out the MTA by imposing a tax on the salary of every employee downstate, whether they used mass transit or not. No one was spared; not towns, villages, schools, libraries, or even nonprofits. As so many times before, we were asked to tighten our belts and do without so the MTA could continue to eat from both sides of its mouth. That's why as Mayor of Mineola at the time, we joined with Nassau and Suffolk Counties, and three other villages as the original plaintiffs in suing to stop what we knew to be unfair and unconstitutional.

It was also one of the reasons I wanted to be your state senator. I couldn't bear to see the MTA go unchallenged every time they picked our pockets. So I continued the fight in Albany. Yet even when we secured a partial repeal of the tax, the MTA hung on to what was so destructive to our fragile economy. In 2010 alone, this tax cost Long Island more than \$229 million. Instead of digging us out of the recession by creating jobs, paying for research, or investing in infrastructure, employers were

forced to subsidize the MTA.

With this ruling, the MTA Payroll Tax should be a thing of the past, but we're not out of the woods yet. This taxpayer victory can be derailed if an appeal is filed by Attorney General Schneiderman's office. As a senator he originally favored the tax, though he later declared it "a bad tax" that was "not well-thought through" when he was running for Attorney General. Hopefully he can withstand the pressure of MTA operatives who are busy broadcasting sensationalist headlines of billion dollar shortfalls and astronomical fare increases.

What's routinely glossed over are the MTA's "Alternative Revenue Streams" that stand apart from fare income. The payroll tax was passed precisely because these streams had dried up with the recession. That's not the case anymore. For example, the MTA gets a piece of the transfer taxes paid when property is sold in New York. This earned approximately \$1.6 billion dollars in 2006, only to sink to \$300 million in 2008. Today it's in recovery and stands at \$700 million. Other revenues have similarly bounced back yet the MTA rarely acknowledges them, as it regularly outspends more than it takes in. To borrow an analogy, the MTA is like the customer at an all-you-can-eat buffet, consuming as much as he can.

As for fare hikes, rumors circulated long before this court decision. History tells us that even with the continued tax revenue, calls for fare increases at the MTA are routine because like many state entities, the MTA was hard hit by increases in their state pension contribution rates when market returns sank. It's one more reason why I'm drafting legislation that would allow municipal employers to pay flat contribution rates year after year, avoiding the unpredictable budget roller coaster that fluctuates with the market. It means more predictable budgets and in this case, hopefully prevents the need for a fare increase.

The correlation between the two is just more proof that our state's problematic pension system negatively impacts our services. Reform, therefore, requires a holistic approach that identifies pressure points and fixes them, rather than simply throwing more money at problems.

Further, if the MTA is considering fare hikes, the question remains: for whom? The suburbs bore the brunt of the fare increase in 2010 even though only about 200 million of the MTA's 2.4 billion riders use the LIRR or Metro North. Why should our commuters pay \$10 one way from Mineola to Penn Station, while a subway rider

pays only \$2.25 from Brooklyn to the Bronx?

Last week an official suggested that I should want the Supreme Court ruling overturned, because “you don’t want to be the one dealing with the hole that this is going to leave.” I disagreed. For too long we’ve been kicking the MTA can down the road for someone else to wrestle with it. If we did the same with our personal or business finances, it would be disastrous so how could anyone advocate that approach with a \$14 billion state authority?

Rather, we must stabilize the MTA's revenue and impose accountability. Their assumption that taxpayers will continue to pony up without question must be confronted. Frankly, if the payroll tax debate serves to open up MTA finances to forensic audit and fosters new approaches, then I think taxpayers will have been well-served. While I praise the MTA’s transportation network as a modern marvel manned by some of the most capable and dedicated employees in the country, taxpayers have every right to shut down the endless buffet.