

N.Y. operator files suit to block transit money grab

NEW YORK — Frustrated by having to pay a newly-imposed employer tax that subsidizes his public transit competitors, a private motorcoach operator is suing to get the levy declared unconstitutional.

William Schoolman of Hampton Luxury Liner and Schoolman Transportation Systems filed suit in State Supreme Court in Suffolk County against the New York Metropolitan Transportation Authority and several state officials.

"This latest tax grab by our elected officials and appointed bureaucrats has wounded my business," Schoolman maintains. "This tax hurts my ability to be competitive and profitable."

He said the tax — \$20,000 a year in his case — is being used to subsidize his competitors, including Long Island Rail Road, Metro North and several public bus systems.

"I'll have to cut expenses some-

where to pay the tax," he noted.

The annual tax, which went into effect in March for businesses in a dozen counties and boroughs where New York MTA operates, requires employers to make annual payments of .34 percent of their payroll.

It is designed to rescue the financially strapped transit agency that was facing a budget shortfall of \$1.8 billion and numerous service reductions. The MTA received an

estimated \$1.35 billion in the initial collection of the tax that took place in November.

The suit, which was filed Dec. 14, claims at least six causes for the tax to be declared unconstitutional.

Among them are alleged violations of a requirement that legislation affecting property and the appropriation of money for local purposes pass by a two-thirds vote of the State Assembly and the State

Senate. The tax bill, according to the suit, fell short of the requirement, passing in the senate by 52 percent and in the assembly by 62 percent.

Other claims in the suit include constitutional violations of provisions that require state legislators to pass separate spending bills for single purposes, and prohibit the state from accepting liability for indebtedness issued by a public

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corporation.

Additionally, the suit charges that the tax bill violates a state law requiring the MTA to be self-sustaining.

MTA spokesman Kevin Ortiz said the agency would have no comment on the legal action.

In addition to the constitutional claims, the suit also offers several examples of the MTA allegedly overstepping its legal authority and acting recklessly, including investing \$1 billion in speculative and volatile contracts that were offered by several national investment firms.

"This MTA gamble backfired, where they are now on the hook for about \$362 million because of their irresponsibility," Schoolman said.

The suit also took issue with MTA employee payment practices, charging the agency and its subsidiaries continue to pay much higher salaries and compensation packages to its employees than are paid in private industry.

"Furthermore, the ratio of MTA employees who are engaged in administrative bureaucracy when compared with those people actually performing hands-on operations of equipment and services, is much higher than ratios at other private transportation organizations," he said. "What many of these people do, where they do it, and how they do it is highly questionable."

As examples of the high pay, the suit cited a Manhattan Institute for Policy Research study done last June that showed that more than 10 percent of MTA's workforce of 8,200 took home \$100,000 or more

in total pay, including overtime.

Among them were 10 who earned more than \$250,000, which

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averaged \$102,000 over their base salaries; 44 who earned between \$200,000 and \$250,000, an average of \$89,000 over their regular pay; 600 who earned between \$150,000 and \$200,000; and 7,560 who earned between \$100,000 and \$150,000.

Schoolman said he expects the MTA to unleash its extensive legal team to fight him and the legal action.

"I am optimistic that other em-

ployers will answer my call to action," he added. "If we allow the MTA to get away with this latest tax, it has opened the door for more, similar MTA taxes in the years to come."

Schoolman's attorney, Joseph N. Campolo, said other businesses affected by the tax would be welcomed to join in the suit by filing their own briefs.

In addition to the MTA, others named in the suit are: New York Gov. David Paterson, State Assembly Speaker Sheldon Silver, State Senate President Malcolm A. Smith, Comptroller Thomas DiNapoli, MTA Commissioner Jay H. Walder and the State Department of Taxation and Finance.

Meantime, additional problems continue to pile up on the MTA.

State Sen. Brian Z. Foly, announced a day after the suit was filed that he plans to introduce state

legislation that would trim the new payroll tax by 68 percent in five counties and by 34 percent in two other counties.

A day later, the MTA board unanimously approved what has been called a "doomsday" budget that increases subway and bus fares to \$2.50 from \$2 and hikes commuter rail line fares and bridge and tunnel tolls. Additionally, the budget also eliminates two subway lines and 35 bus routes and reduces service on several other lines.

Assembly Speaker Sheldon Silver said he plans to do everything he can to make sure that the action by the MTA board will not stand, while Gov. David Paterson said he and lawmakers will try to develop an agreement on a financial rescue plan for the agency.

To view a copy of the suit and other information, go to www.mtataxpayerabuse.com.