



## NEW JERSEY STATE BAR ASSOCIATION

ROBERT B. HILLE, PRESIDENT  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
973-348-5234 • FAX: 973-425-0161  
rhille@mdmc-law.com

March 22, 2018

The Honorable Robert Menendez  
528 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Cory Booker  
359 Dirksen Senate Office Building  
Washington, DC 20510

**RE: Funding and Organization of the National Labor Relations Board**

Dear Senator Menendez and Senator Booker:

The New Jersey State Bar Association (NJSBA) is deeply concerned over the National Labor Relations Board's proposed Fiscal Year 2017-2018 budget, 2018-2019 budget, and anticipated restructuring of the General Counsel's field organization. The NJSBA has over 18,000 members, and it serves as the voice of New Jersey lawyers engaged in the practice of traditional labor law before the National Labor Relations Board (NLRB). The Association's membership is unique in that it represents both management and unions, and they are unanimous in their respect for the NLRB and, in particular, Region 22 (Newark) and Region 4 (Philadelphia), which have jurisdiction over private sector employers in New Jersey. If approved, the proposed budget and restructuring will have a devastating impact on the ability of those offices to continue to perform their stellar work.

According to the General Counsel's Office, instead of the \$274 million appropriated budget under the current continuing resolution, the NLRB is operating on the president's proposed FY 2017-2018 budget of \$258 million, a de facto cut of \$16 million from appropriations.<sup>1</sup> In proportion to the NLRB's total budget, the \$16 million loss of funding marks a drastic reduction that threatens to undermine an historic forum that has been relied on by both labor and management for decades. The recently released proposed FY 2018-2019 budget continues the \$16 million budget cut. In response, the NLRB is reportedly now considering a "reorganization" around the deficit that threatens further damage to the structural integrity of the institution.

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<sup>1</sup> Casehandling Cost Saving Instructions for Fiscal Year 2018, National Labor Relations Board, Office of the General Counsel, Division of Operations-Management, Memorandum OM 18-06, Feb. 13, 2018.

Since the bulk of the NLRB's expenditures are salary and personnel related, the slashing of the FY 2018 budget was projected to result in a loss of up to 275 jobs, reducing the NLRB from 1,596 down to 1,320 employees, a number that itself had already dropped precipitously from 1,993 full-time employees in FY 2001.<sup>2</sup>

A fully funded and staffed NLRB is a necessity in the rapid resolution of these types of cases. Cases must be researched; investigations must be expeditious and thorough. It is crucial that investigations are conducted face-to-face and not telephonically or electronically. When cases are delayed due to insufficient staff, union, management, and most importantly the rank-and-file suffer.

There are currently reports of controversial statements by the General Counsel of the NLRB about planned changes to the reporting structure of the NLRB. As it now exists the decision whether to proceed with a case is decided by the 26 Regional Directors of the NLRB, who together with their staff resolve more than 85 percent of the cases that are filed locally at each region.<sup>3</sup> Reportedly, General Counsel has proposed that the Regional Directors be downgraded to GS-15 positions ostensibly as a cost-savings, and that they report to a small number of district directors located at the Washington D.C. headquarters who will now decide whether to proceed with a case that has been filed at the local level.<sup>4</sup>

While General Counsel has denied these reports, it should be noted that there has been no study to determine whether such a reorganization would result in cost-savings, the purported rationale for the changes. More importantly, the NLRB Regional Directors are a dedicated group of Select Executive Service leaders who are each an expert in the field and understand the workings of the National Labor Relations Act and its real-world implementation. Regional Directors know the local businesses, the local unions, the dynamics in these relationships, and the means to achieve industrial peace, the main goal of the NLRB under the National Labor Relations Act. As stakeholders, the NJSBA labor and employment lawyers value the expertise that Regional Directors bring to labor disputes and the means of their resolution. To now remove that authority at the local level and entrust that power in the hands of a smaller group of individuals, who themselves may be more susceptible to political pressure, is simply baffling.

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<sup>2</sup> Lawrence E. Dube and Hassan A. Kanu, Labor Board Funding Cut 6 Percent in Trump Budget Plan, *Bloomberg News* (May 24, 2017), available at <https://www.bna.com/labor-board-funding-n73014451456/>; Chris Opfer, Labor Board Official Preps for Staffing Cuts, *Bloomberg News* (Feb. 7, 2018), available at <https://www.bna.com/labor-board-official-n57982088472/>.

<sup>3</sup> Noam Scheiber, Trump Appointee is Trying to Squelch Us, Labor Board Staff Says, *New York Times* (Jan. 25, 2018), available at <https://www.nytimes.com/2018/01/25/business/economy/labor-board.html>.

<sup>4</sup> *Id.*; see also, Hassan A. Kanu, Labor Board Officials have 'Grave' Concerns About Restructuring, *Bloomberg News* (Jan. 25, 2018).

Accordingly, the Association calls for no less than the full appropriated funding of the NLRB and the rejection of the proposed reorganization.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. B. Hille', written in a cursive style.

Robert B. Hille, Esq.  
President, New Jersey State Bar Association

cc: The Honorable Marvin E. Kaplan, Chair, NLRB  
The Honorable Lauren McFerran, Member, NLRB  
The Honorable Mark Gaston Pearce, Member, NLRB  
The Honorable William J. Emanuel, Member, NLRB  
The Honorable Peter B. Robb, General Counsel, NLRB  
The Honorable David Leach, Director, Region Twenty-Two, NLRB  
The Honorable Dennis P. Walsh, Director, Region Four, NLRB  
John E. Keefe Jr., Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director