**Headline:** How a Federal Agency’s Funding Crisis Imperils Workers’ Rights

By Tom Conway

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**[Article Body:]**

Some workers began delaying doctor’s appointments and others started delving deeply into their pockets for care when Tecnocap illegally slashed health benefits at its Glen Dale, West Virginia, manufacturing plant last year.

One worker even put thousands of dollars of chemotherapy charges on credit cards to save his wife’s life.

Lisa Wilds, president of United Steelworkers (USW) Local 152M, assured her colleagues that the company would be held accountable for the harm it inflicted on them. And just as she anticipated, a National Labor Relations Board (NLRB) administrative law judge issued a ruling in August that ordered Tecnocap to reinstate the old health plan and [reimburse workers, with interest, for all expenses](https://www.law360.com/employment-authority/articles/1526035/manufacturer-didn-t-bargain-to-impasse-nlrb-judge-says) they incurred because of the company’s wrongdoing.

When employers like Tecnocap break the law, workers rely on the NLRB to enforce their rights. But a [funding crisis imperils that mission](https://labornotes.org/2022/07/viewpoint-nlrb-underfunded-and-understaffed) at a time [more and more Americans](https://www.progressivecaucuscenter.org/nlrb-increased-workload) need the agency’s protection.

The NLRB hasn’t had an increase in its $274 million annual budget [since the 2014 fiscal year](https://www.reuters.com/legal/government/us-labor-board-warns-furloughs-without-budget-increase-2022-11-18/), even though its workload skyrocketed in the wake of the COVID-19 pandemic.

Union organizing drives, overseen by the NLRB, [increased 53 percent](https://www.nlrb.gov/news-outreach/news-story/election-petitions-up-53-board-continues-to-reduce-case-processing-time-in) over the past year as workers in [manufacturing](https://www.kfyrtv.com/2022/09/28/bobcat-workers-win-united-steelworkers-representation-bismarck/), [e-commerce](https://www.thecity.nyc/work/2022/9/1/23333285/union-organizing-amazon-workers-nyc), [health care](https://www.axios.com/2022/06/02/health-care-workers-unions-covid-fatigue) and numerous other industries banded together for the higher wages, affordable health care, paid sick leave and other advantages that only collective action can deliver.

Employers doubled down on misconduct amid this wave of worker empowerment, with unfair labor practice charges—the complaints workers file when companies violate their rights—increasing 19 percent during the same 12-month period.

Fortunately, the NLRB stepped in to [save the jobs](https://www.nlrb.gov/news-outreach/news-story/nlrb-region-29-wins-federal-court-order-requiring-amazon-to-cease-and) of workers illegally fired for union activity, [force companies to bargain in good faith](https://www.nlrb.gov/news-outreach/news-story/us-district-court-orders-arbah-hotel-corporation-to-pay-fines-and-nlrb) and prohibit employers from [spying](https://www.nlrb.gov/news-outreach/news-story/nlrb-general-counsel-issues-memo-on-unlawful-electronic-surveillance-and) on and [demeaning](https://www.nlrb.gov/news-outreach/news-story/board-rules-workplace-policies-limiting-wearing-union-insignia-including) workers.

“There is no way to put into words the value and importance of the NLRB,” explained Wilds, who stands to recoup about $7,000 herself after the agency ordered Tecnocap to reimburse the workers for medical bills.

This was just one of numerous times she and her co-workers turned to the NLRB for help over the years. In 2018, for example, Tecnocap [illegally locked out workers](https://wtov9.com/news/local/union-members-locked-out-at-tecnocap) for nine days, refusing to let them work, in an effort to break the union during contract negotiations.

The group stood strong, however, and the NLRB ruled the lockout illegal. The agency ordered Tecnocap to pay the workers lost wages, plus interest. And it also ordered the company to reimburse workers for any [“search-for-work and interim employment expenses”](https://www.theintelligencer.net/news/community/2019/09/tecnocap-lockout-upheld-by-labor-group/) they incurred during the lockout.

Victories like the ones at Tecnocap benefit workers across the country because they warn employers to toe the line. If one employer gets away with breaking the law, Wilds noted, others will attempt shenanigans of their own.

“It spreads like a disease,” noted Wilds, who worries that cost-cutting at the NLRB will result in slower investigations and give unscrupulous employers an advantage.

The NLRB warned of these very risks in a recent letter [calling on Congress](https://www.nlrb.gov/sites/default/files/2022-11-18-letter-to-appropriators.pdf) to address its “urgent funding needs.”

“The agency has already implemented a hiring freeze and, without additional funding, will likely be forced to pursue furloughs,” wrote NLRB Chair Lauren McFerran and General Counsel Jennifer Abruzzo, noting that slower investigations “delay relief for the injured party and may also increase the amount the charged party owes in monetary damages as interest, backpay, and other harms continue to accrue.”

The NLRB had a workforce of [more than 1,700](https://www.federaltimes.com/federal-oversight/congress/2022/11/30/norcross-presses-for-fresh-nlrb-funding-to-avoid-employee-furloughs/) in 2010. But that’s [fallen to about 1,200](https://www.politico.com/newsletters/weekly-shift/2022/11/14/nlrb-boosters-continue-quest-for-funding-boost-00066681) as vacancies go unfilled because of the budget crisis.

“While the agency has increased its productivity in recent years, staff cannot keep up with an increasing workload,” McFerran and Abruzzo added. “Further erosion of the agency’s staff and resources will continue to harm case processing to the significant detriment of both employers and employees.”

Workers need a robustly funded and staffed NLRB now more than ever as employers invent new ways to subvert union drives and deny workers a voice on the job.

In recent months, for example, [workers filed dozens of unfair labor practice charges](https://www.nbcnews.com/business/corporations/worker-complaints-alleging-anti-union-shutdowns-surge-organizing-rcna55057) with the NLRB about employers who illegally subcontracted work to avoid unions or shut down [stores](https://www.huffpost.com/entry/trader-joes-wine-shop-closed-union_n_62fd72cce4b071ea958c5b35), [restaurants](https://www.wabi.tv/2022/11/04/nlrb-issues-complaint-ordering-chipotle-reopen-closed-augusta-store/), [factories](https://inthesetimes.com/article/amys-kitchen-freezes-union-organizing) and other workplaces when workers began exercising their labor rights.

Members of USW Local 4040 who work at HCL, a Google contractor, experienced a similar form of retaliation after organizing in 2019.

While in negotiations for a first contract, workers noticed that the company failed to fill vacancies on Pittsburgh-based work teams at the same time it kept adding similar positions at its location in Poland. “It started looking pretty fishy to us,” recalled Local 4040 President Stefan Sidelnick.

The union filed unfair labor practice charges with the NLRB, which confirmed that HCL intended to erode the bargaining unit rather than negotiate with it. The NLRB demanded that the company restore the work shifted overseas.

“We feel it kind of lit a fire under the company’s feet,” Sidelnick said of the NLRB’s involvement, noting union members and HCL ultimately reached a contract that protects staffing levels at the Pittsburgh location.

Only a robustly funded and staffed NLRB can continue to protect workers’ livelihoods as it did for union members at Tecnocap and HCL. Wilds said her co-workers have peace of mind just knowing the agency is standing watch for them.

“Are you going to go into battle with a tank or are you going into battle with a stick? That’s the difference,” Wilds said of the NLRB’s power to level the playing field for workers.