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## ALLEGHENY COUNTY LABOR COUNCIL REPORT OF LEGAL COUNSEL January 4, 2018

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### **I. AFL-CIO Challenges to Recent NLRB Rulings Unlikely to Succeed**

The AFL-CIO is promising a fight after the new Republican-led National Labor Relations Board has swiftly offered employers and business groups a series of victories on pivotal issues arising under the Obama administration. After confirmation of President Donald Trump’s nominees to the Board, the NLRB gained a Republican majority and started issuing a slew of reversals in December. In only one week, the board overruled five decisions that were widely accepted by companies and trade groups alike as favoring unions. These reversals concerned issues such as the standards for determining joint employment, the validity of workplace rules, and whether proposed bargaining units are appropriate. The speed at which the reversals were rendered is unprecedented, and in some instances, the parties were not even asked to brief the essential issues of the case. The Board also departed from long-standing tradition by failing to invite amicus briefs before making major policy decisions. As a result, AFL-CIO’s general counsel, Craig Becker, promised there will be legal challenges to each reversal.

While the NLRB typically rejects motions for reconsideration, the Board will nonetheless reexamine a case when parties present new evidence or a change in the law. Accordingly, the first step in challenging the Board’s recent reversals is for unions and/or workers to file motions for reconsideration that demonstrate “extraordinary circumstances” warranting another look at their cases. Under the NLRA, “aggrieved” parties may appeal a Board decision to federal court. However, even if unions were to appeal to federal court, such appeals take many years and will likely land in Courts that have been packed with Trump appointees. As such, it appears the Board’s current position on many issues will likely remain law.

### **II. Union Workers to Build Northeast Semi-Supersonic Train**

Northeast Maglev and the North America’s Building Trades Unions signed a memorandum of understanding to only use union labor in constructing a high-speed train from New York to Washington, D.C. The train will travel at nearly half the speed of sound and will transport passengers between the two cities in roughly one hour. Rather than using rails, wheels, and electric motors, the high-speed train will use powerful magnets that “float” inside U-shaped



guideways to accelerate, brake, and steer. In 2015, a train with similar technology in Japan set a world speed record of 375 mph. While a current trip from Baltimore to Washington, D.C. takes close to an hour on Amtrak's high-speed Acela service, it is predicted that same trip on the new Maglev train will only take 15 minutes. Northeast Maglev estimates the New York-Washington, D.C. railway could cost more than \$100 billion to complete, and although construction is still years away, the project is certain to bring about fast transportation in a system built through good paying union jobs.

Respectfully Submitted,  
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