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DISSENTING ORDER

The Board has found in its order entered today a "good faith" doubt exists as to which, if any, employee organization represents the bargaining unit at issue. To permit negotiations to go forward between the employer and the incumbent could:

- 1) be a useless act;
- 2) give unfair advantage to the incumbent; and
- 3) anticipate the outcome of the ordered election.

Contrary to the majority's view, I do not view any portion of NRS Chapter 288 compelling negotiations where a good faith doubt exists as to which organization represents the employees.

In fact, for the employer to recognize an employee organization which may not represent a majority of the employees is an unfair labor practice under our statutes.

To give NRS 288.180(1) the effect which the majority does today may well result in unfairly predisposing the outcome of the election in favor of the incumbent by suggesting to the employees the incumbent has the advantage through its status of negotiating with the employer.

Further, reading this statute as the majority does today would also permit the challenging employee organization to make a similar request to commence negotiations, leaving the employer in the dilemma of trying to decide the appropriate employee representative. The denial of the motion creates a mine-field of potential unfair labor practices for the parties.

The objective of this tribunal should be to insure a full and fair election allowing employees to select their representative, if any, in the absence of unfair, prejudicial influences. The only way to accomplish that result in these circumstances is to stay the negotiations. Nothing in NRS Chapter 288 prohibits granting the motion; THEREFORE, I would grant the motion to stay or suspend negotiations until the outcome of the election.

DATED this 13th day of April, 2001:

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

By 
JOHN E. DICKS, ESQ., Vice-Chairman