



# California Fair Political Practices Commission

August 24, 1989

Honorable Richard S. Hill  
City Councilmember  
City of San Juan Bautista  
P.O. Box 358  
San Juan Bautista, CA 95045

Re: Your Request for Advice  
Our File No. A-89-440

Dear Mr. Hill:

This is in response to your letter requesting the confirmation of telephone advice provided to you concerning your responsibilities pursuant to the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1/</sup> This letter confirms that your letter dated July 21, 1989 accurately summarizes the telephone advice I provided to you on July 12, 1989.

Section 87100 prohibits any public official from making, participating in making, or otherwise using his official position to influence a governmental decision in which the official has a financial interest. Section 87103 specifies that an official has a financial interest if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

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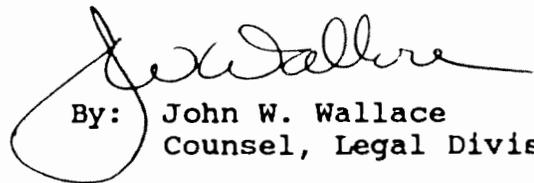
<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

participate in city council decisions concerning the police department of your city. However, please note that our advice is limited to the Political Reform Act. As I stated in our telephone conversation, other laws may apply to your situation. It would be advisable to contact your city attorney or the Attorney General's Office with respect to other provisions of law that might apply.

If you have any further questions concerning this matter or questions concerning specific decisions that confront you, please feel free to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan  
General Counsel

A handwritten signature in cursive script, appearing to read "John W. Wallace". The signature is written in dark ink and is positioned above the typed name and title.

By: John W. Wallace  
Counsel, Legal Division

KED:JWW:plh

Enclosures

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103.

You stated in our telephone conversation that in addition to being a councilmember for the City of San Juan Bautista, you are a volunteer reserve police officer with the city. You asked whether merely holding both positions was a conflict of interest under the Act.

The Act focuses primarily on economic interests. Thus, income, investments and property are all financial interests that may become disqualifying interests. According to Section 82005, however, a local government agency is not an organization or enterprise operated for profit and therefore not a business entity as defined by the Act. Thus, your employment with the city police department does not create a conflict of interest concerning city council decisions affecting the police department. (Sections 87103(d); Darcy Advice Letter, No. I-87-296, copy enclosed.)

Further, even if you were a paid employee of the city police department, salary and reimbursement for expenses or per diem received from a state, local or federal government agency is expressly exempted from the definition of "income" for purposes of the Act. (Section 82030(b)(2); Boomer Advice Letter, No. I-88-291, copy enclosed.)

Thus, absent some other disqualifying financial interest as set forth in Section 87103, or some direct financial effect on you personally resulting from a governmental decision,<sup>2/</sup> you may

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<sup>2/</sup> For example if the city council were to decide whether to have the city provide the volunteers with legal representation that the volunteer would normally have to pay on his or her own. (Sampson Advice Letter, No. I-89-196, copy enclosed.)

California Fair Political Practices Commission  
Attention LEGAL DIVISION  
P.O. Box 807  
Sacramento, Ca. 95804

FPPC

JUL 26 8 50 AM '89

S. Richard Hill  
Member of City Council  
P.O. 358  
San Juan Bautista, Ca. 95045

Re; Opinion / Incompatibility

Dear Sir,

July 21, 1989

Several Days ago, I spoke with Mr. John Wallace Via telephone in your office. I asked Mr. Wallace a question in reference to INCOMPATIBILITY between the volunteer position of part-time police reserve (non-paid) and city council member (non-paid).

Mr. Wallace felt there would not be incompatibility in the two. He did however, advise me to request a written opinion. Below I will advise the facts of the positions and enclose written information that may assist your office.

Last November, I was elected to the San Juan Bautista City Council. For several years before that time, I was a volunteer reserve police officer. Before my decision to run for city office, I contacted your office by telephone. At that time I was advised there did not appear to be a conflict or incompatibility. I also contacted the League of California Cities, and the office for The Commission of Peace Officer Standards and Training. Both of the offices advised the same as your office. That it appeared there would not be conflict or incompatibility.

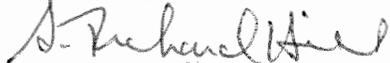
I have been in contact with several persons in the state, that like myself, are volunteer law enforcement officers and hold elected office. Enclosed you will find letters in reference to same.

In closing, I would like to explain how I feel about this matter. As a non-paid volunteer police reserve, I am one hundred percent subordinate to the chief of police. As one member of a five (5) member city council, I am only one-fifth of the employer of the chief. I was elected by a large margin of the voters with them having full knowledge that I was a volunteer police officer and that after confirming with the above named agencies there would not be an incompatibility, I would stay as a volunteer police officer.

Also enclosed is a copy of SB 1228. This bill after passing will even further clarify the issue although both of my positions are non-paid and the pending law is more applicable to paid officers.

Thank you for your attention to this matter.

S. Richard Hill



pc: file RICHARD HILL

(408) 623-2378



PETE HARTNETT

SENATOR LEROY GREENE  
MAJORITY SERVICES



1127 11TH STREET  
ROOM 305  
SACRAMENTO, CA 95814  
(916) 324-4937

RICHARD HILL  
(408) 623-2378

BILL NUMBER: SB 1228

BILL TEXT

INTRODUCED BY Senator Leroy Greene

MARCH 9, 1989

An act to amend Section 1126 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, as introduced, L. Greene. Local agency employees.

Existing law prohibits a local agency or employee from engaging in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed, except as otherwise specified.

This bill would specify that nothing in this provision is intended to abridge or otherwise restrict the rights of public employees with respect to political activities, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1126 of the Government Code is amended to read:

1126. (a) Except as provided in Sections 1128 and 1129, a local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. ~~Such~~ The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or

BILL ANALYSIS SB 1228 03/09/89 SEN. F. A.  
CONSENT

RECORD 6238

SB 1228

L. Greene (D)

As introduced

Majority

SUBJECT: Local government employees: political activities

SOURCE: Peace Officers Research Association of California

DIGEST: This bill declares that existing law which governs work-related outside activities of local agency employees must not infringe upon the rights of public employees to participate in outside political activities.

ANALYSIS: In 1971, the Legislature defined "incompatible activities" which conflict with the duties of an employee of a local agency. Local agency employees cannot participate in outside activities which:

- Result in paid performance subject to approval by other public officials employed by the same agency.
- Involve the use of public time, supplies, facilities for private gain or advantage.
- Involve payments for activities which the employees perform in their

RICHARD HILL  
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regular  
employment.

- Take time that would "render performance" of regular duties less efficient.
- May be subject to inspection or supervision by their agency or supervisor at  
a later date.

Five years later, the Legislature declared that the political activities of public employees were of "significant statewide concern." The 1976 law said

CONTINUED  
SB 1228  
Page 2

that "no restriction shall be placed on the political activities of any officer or employee of a state or local agency."

But public employees cannot:

- Participate in political activities while in uniform.
- Knowingly solicit funds from fellow public employees.
- Use their authority or office to pressure fellow public employees into acting  
in a political manner.

Local agencies may restrict their employees' use of public facilities for political purposes. In addition, an agency may establish rules and regulations which ban political activities during working hours. But state and local agencies cannot establish any rules limiting the rights of employees to work on campaigns, run for office, or contribute to candidates on their own time.

Unlike the 1972 language, the language in the 1971 legislation does not specifically express the rights of public employees to participate in political activities on their own time. The Peace Officers Research Association of California believes that the two sections should be linked.

According to the Senate Local Government Committee Analysis, recently a Tustin (Orange County) police officer testified before the city council on an proposal to place a new stoplight in front of a school. The officer introduced himself as a city police officer and president of the officers' union. The City was

RICHARD HILL  
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concerned that his testimony and representation could subject the City to litigation if the \$150,000 stoplight was not installed. The officer received an "oral reprimand" for his testimony. The officer argued his right to testify as a citizen of Tustin; the City argued that the officer should not have represented himself as a city employee. As sponsors, the Peace Officers' Research Association of California (PORAC) wants to ensure that other officers are free to voice opinions at all times. PORAC knows of "several" other instances where officers were "disciplined" for working on political campaigns. They'd like to safeguard their rights as citizens to participate in political activities with SB 1228.

Existing law specifically grants state employees protection similar to the protection provided for in SB 1228. The law relating to public employees' political activities has a special section declaring that "the limitations set forth in this chapter shall be the only restrictions on the political activities of state employees."

FISCAL EFFECT: Appropriation: No Fiscal Committee: No Local: No

SUPPORT: (Verified 5/25/89)

Peace Officers Research Association of California (source)

DLW:lm 5/25/89 Senate Floor Analyses

ILL ANALYSIS SB 1228 03/09/89	SEN. L. GOV.	RECORD	4379
ENATE LOCAL GOVERNMENT COMMITTEE	VERSION:	03/09/89	S
enator Marian Bergeson, Chairman	SET:	First	B
	HEARING:	05/17/89	
	FISCAL:	No	1
enate <u>Bill 1228</u> - L. Greene	CONSULTANT:	Kiff	2
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RICHARD HILL  
(408) 623-2378

BILL NUMBER: SB 1228

## BILL TEXT

commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b).

(b) Each appointing power may determine, subject to approval of the local agency, and consistent with the provisions of Section 1128 where applicable,

those outside activities which, for employees under its jurisdiction, are inconsistent with, incompatible to, or in conflict with their duties as local agency officers or employees. An employee's outside employment, activity, or enterprise may be prohibited if it: (1) involves the use for private gain or advantage of his or her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment or, (2) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local agency employment or as a part of his or her duties as a local agency officer or employee or, (3) involves the performance of an act in other than his or her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which he or she is employed, or (4) involves ~~such~~ the time demands as would render performance of his or her

duties as a local agency officer or employee less efficient.

The local agency may adopt rules governing the application of this section.

~~Such~~ The rules shall include provision for notice to employees of the determination of prohibited activities, of disciplinary action to be taken against employees for engaging in prohibited activities, and for appeal by employees from such a determination and from its application to an employee.

Nothing in this section is intended to abridge or otherwise restrict the rights of public employees under Chapter 9.5 commencing with Section 3201) of Title 1.

Subject: Local Government Employees' Political Activities

Background and Existing Law:

In 1971, the Legislature defined "incompatible activities" which conflict with the duties of an employee of a local agency. Local agency employees cannot participate in outside activities which:

- o Result in paid performance subject to approval by other public officials employed by the same agency.
- o Involve the use of public time, supplies, facilities for private gain or advantage.
- o Involve payments for activities which the employees perform in their regular employment.
- o Take time that would "render performance" of regular duties less efficient.
- o May be subject to inspection or supervision by their agency or supervisor at a later date.

Five years later, the Legislature declared that the political activities of public employees were of "significant statewide concern." The 1976 law said that "no restriction shall be placed on the political activities of any officer or employee of a state or local agency."

But public employees cannot:

- o Participate in political activities while in uniform.
- o Knowingly solicit funds from fellow public employees.

B 1228 - 03/09/89 Page 2

- o Use their authority or office to pressure fellow public employees into acting in a political manner.

Local agencies may restrict their employees' use of public facilities for political purposes. In addition, an agency may establish rules and regulations which ban political activities during working hours. But state and local agencies cannot establish any rules limiting the rights of employees to work on campaigns, in for office, or contribute to candidates on their own time.

Unlike the 1972 language, the language in the 1971 legislation does not specifically express the rights of public employees to participate in political activities on their own time. The Peace Officers Research Association of California believes that the two sections should be linked.

Proposed Law:

Senate Bill 1228 declares that existing law which governs work-related outside activities of local agency employees must not infringe upon the rights of public employees to participate in outside political activities.

Comments:

1. Not a big change. SB 1228 links two sections of the Government Code which relate to outside work-related activities and outside political activities. The Peace Officers' Research Association of California (PORAC) is concerned that employers may not know that the two sections exist. If employers only look at SB 1228 - 03/09/89 Page 3

the first section (relating to outside work-related activities), they may assume that an outside political activity may be considered "work-related." Following that logic, employers could restrict the rights of their employees to work on campaigns or run for office even though existing law expressly forbids any restrictions upon public employees' political activities. SB 1228 ensures that the above scenario doesn't occur.

2. The story. Recently a Tustin (Orange County) police officer testified before the city council on an proposal to place a new stoplight in front of a school. The officer introduced himself as a city police officer and president of the officers' union. The City was concerned that his testimony and representation could subject the City to litigation if the \$150,000 stoplight was not installed. The officer received an "oral reprimand" for his testimony. The officer argued his right to testify as a citizen of Tustin; the City argued that the officer should not have represented himself as a city employee. As sponsors, the Peace Officers' Research Association of California (PORAC) wants to ensure that other officers are free to voice opinions at all times. PORAC knows of "several" other instances where officers were "disciplined" for working on political campaigns. They'd like to safeguard their rights as citizens to participate in political activities with SB 1228.

3. Similar protection for state employees. Existing law specifically grants state employees protection similar to the protection provided for in SB 1228. The law relating to public employ-

ees' political activities has a special section declaring that "the limitations set forth in this chapter shall be the only restrictions on the political activities of state employees." The Committee may wish to consider whether language similar to this can work for local government employees as well.  
SB 1228 - 03/09/89 Page 4

Support and Opposition: (05/11/89)

Support: Peace Officers' Research Association of California.

Opposition: Unknown.



# Board of Supervisors County of Los Angeles

MICHAEL D. ANTONOVICH  
SUPERVISOR FIFTH DISTRICT

February 13, 1989

Councilman S. Richard Hill  
City of San Juan Bautista  
P.O. Box 358  
San Juan Bautista, CA 95045

Dear Councilman Hill:

Thank you for your letter of February 6th. I am a South Pasadena Police Reserve and have never encountered a conflict problem while I served in the State Assembly nor currently as Supervisor.

Please do not hesitate to contact me should you need further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Mike Antonovich".

MICHAEL D. ANTONOVICH  
Supervisor, Fifth District

MDA:lk

RICHARD HILL  
(408) 623-2378



# California Fair Political Practices Commission

July 27, 1989

Honorable Richard S. Hill  
Councilmember  
P.O. Box 358  
San Juan Bautista, CA 95045

Re: Letter No. 89-440

Dear Mr. Hill:

Your letter requesting advice under the Political Reform Act was received on July 26, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John Wallace an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan  
General Counsel

KED:plh

California Fair Political Practices Commission  
 Attention LEGAL DIVISION  
 P.O. Box 807  
 Sacramento, Ca. 95804

F P P C

Jul 26 8 50 AM '89

S. Richard Hill  
 Member of City Council  
 P.O. 358  
 San Juan Bautista, Ca. 95045

Re; Opinion / Incompatibility

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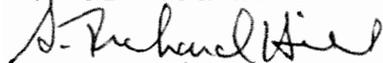
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Also enclosed is a copy of SB 1228. This bill after passing will even further clarify the issue although both of my positions are non-paid and the pending law is more applicable to paid officers.

Thank you for your attention to this matter.

S. Richard Hill



pc: file RICHARD HILL

(408) 622-9970



**PETE HARTNETT**

**SENATOR LEROY GREENE**  
MAJORITY SERVICES



1127 11TH STREET  
ROOM 305  
SACRAMENTO, CA 95814  
(916) 324-4937

# CITY OF SAN JUAN BAUTISTA

The Mission -- 1797



311 2nd St.  
P.O. Box 358  
San Juan Bautista, CA 95045

Telephone (408) 623-4661  
Private Line  
(408) 623-2378

RICHARD HILL  
**(408) 623-2378**

BILL NUMBER: SB 1228

## BILL TEXT

INTRODUCED BY Senator Leroy Greene

MARCH 9, 1989

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Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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SECTION 1. Section 1126 of the Government Code is amended to read:

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RICHARD HILL  
(408) 623-2378

BILL ANALYSIS SB 1228 03/09/89 SEN. F. A.  
CONSENT

RECORD 6238

SB 1228

L. Greene (D)

As introduced

Majority

SUBJECT: Local government employees: political activities

SOURCE: Peace Officers Research Association of California

DIGEST: This bill declares that existing law which governs work-related outside activities of local agency employees must not infringe upon the rights of public employees to participate in outside political activities.

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CONTINUED  
SB 1228  
Page 2

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According to the Senate Local Government Committee Analysis, recently a Tustin (Orange County) police officer testified before the city council on an proposal to place a new stoplight in front of a school. The officer introduced himself as a city police officer and president of the officers' union. The City was

concerned that his testimony and representation could subject the City to litigation if the \$150,000 stoplight was not installed. The officer received an "oral reprimand" for his testimony. The officer argued his right to testify as a citizen of Tustin; the City argued that the officer should not have represented himself as a city employee. As sponsors, the Peace Officers' Research Association of California (PORAC) wants to ensure that other officers are free to voice opinions at all times. PORAC knows of "several" other instances where officers were "disciplined" for working on political campaigns. They'd like to safeguard their rights as citizens to participate in political activities with SB 1228.

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FISCAL EFFECT: Appropriation: No Fiscal Committee: No Local: No

SUPPORT: (Verified 5/25/89)

Peace Officers Research Association of California (source)

DLW:lm 5/25/89 Senate Floor Analyses

BILL ANALYSIS SB 1228 03/09/89  
 SENATE LOCAL GOVERNMENT COMMITTEE  
 Senator Marian Bergeson, Chairman

SEN. L. GOV.	RECORD	4379
VERSION:	03/09/89	S
SET:	First	B
HEARING:	05/17/89	
FISCAL:	No	1
CONSULTANT:	Kiff	2
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Senate Bill 1228 - L. Greene

Subject: Local Government Employees' Political Activities

Background and Existing Law:

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SB 1228 - 03/09/89 Page 2

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Comments:

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the first section (relating to outside work-related activities), they may assume that an outside political activity may be considered "work-related." Following that logic, employers could restrict the rights of their employees to work on campaigns or run for office even though existing law expressly forbids any restrictions upon public employees' political activities. SB 1228 ensures that the above scenario doesn't occur.

2. The story. Recently a Tustin (Orange County) police officer testified before the city council on an proposal to place a new stoplight in front of a school. The officer introduced himself as a city police officer and president of the officers' union. The City was concerned that his testimony and representation could subject the City to litigation if the \$150,000 stoplight was not installed. The officer received an "oral reprimand" for his testimony. The officer argued his right to testify as a citizen of Tustin; the City argued that the officer should not have represented himself as a city employee. As sponsors, the Peace Officers' Research Association of California (PORAC) wants to ensure that other officers are free to voice opinions at all times. PORAC knows of "several" other instances where officers

were "disciplined" for working on political campaigns. They'd like to safeguard their rights as citizens to participate in political activities with SB 1228.

3. Similar protection for state employees. Existing law specifically grants state employees protection similar to the protection provided for in SB 1228. The law relating to public employ-

ees' political activities has a special section declaring that "the limitations set forth in this chapter shall be the only restrictions on the political activities of state employees." The Committee may wish to consider whether language similar to this can work for local government employees as well.

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Support and Opposition: (05/11/89)

Support: Peace Officers' Research Association of California.

Opposition: Unknown.



# Board of Supervisors County of Los Angeles

MICHAEL D. ANTONOVICH  
SUPERVISOR FIFTH DISTRICT

February 13, 1989

Councilman S. Richard Hill  
City of San Juan Bautista  
P.O. Box 358  
San Juan Bautista, CA 95045

Dear Councilman Hill:

Thank you for your letter of February 6th. I am a South Pasadena Police Reserve and have never encountered a conflict problem while I served in the State Assembly nor currently as Supervisor.

Please do not hesitate to contact me should you need further assistance.

Sincerely,

A handwritten signature in black ink that reads "Mike Antonovich". The signature is written in a cursive, flowing style.

MICHAEL D. ANTONOVICH  
Supervisor, Fifth District

MDA:lk

RICHARD HILL  
(408) 623-2378