

**ASSEMBLY BILL**

**No. 1743**

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**Introduced by Assembly Member Hernandez  
(Principal coauthor: Assembly Member Lieu)  
(Coauthors: Assembly Members Block, Blumenfield, Buchanan,  
Ma, Portantino, Saldana, and Audra Strickland)  
(Coauthor: Senator Correa)**

February 8, 2010

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An act to amend Sections 7513.8 and 82002 of, and to add Sections 7513.86 and 7513.87 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1743, as introduced, Hernandez. Political Reform Act of 1974: placement agents.

Existing law regulates investments made by public pension and retirement systems and defines the term “placement agent” to mean a person or entity hired, engaged, or retained by an external manager, as defined, to raise money or investment from a public retirement system in California. Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of the lobbying industry, including requiring lobbyists to register with the Secretary of State and prohibiting lobbyists from engaging in certain activities in connection with legislative and administrative actions, as defined.

This bill would prohibit a person from acting as a placement agent in connection with any potential system investment made by a state public retirement system unless that person is registered as a lobbyist and is in full compliance with the Political Reform Act of 1974 as that act applies to lobbyists. The bill would also require a person acting as

a placement agent in connection with any potential system investment made by a local public retirement system to comply with any applicable requirements imposed by a local government agency in addition to those imposed by state law. However, the bill would exempt from these requirements an employee, officer, director, equity holder, partner, member, or trustee of an external manager who spends one-third or more of his or her time, during a calendar year, managing the assets controlled by the external manager. The bill would further expand the definition of “administrative action” for purposes of the Political Reform Act of 1974 to include, with regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets.

Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7513.8 of the Government Code is
- 2 amended to read:
- 3 7513.8. As used in Sections 7513.85, 7513.86, 7513.87, 7513.9,
- 4 and 7513.95:
- 5 (a) “Board” means the retirement board of a public pension or
- 6 retirement system, as defined in subdivision (h) of Section 17 of
- 7 Article XVI of the California Constitution.

1 (b) “External manager” means an asset management firm that  
2 is seeking to be, or has been, retained by a public retirement system  
3 in California to manage a portfolio of assets, including securities,  
4 for a fee.

5 (c) “Placement agent” means any person or entity hired,  
6 engaged, or retained by, or acting on behalf of, an external  
7 manager, or on behalf of another placement agent, as a finder,  
8 solicitor, marketer, consultant, broker, or other intermediary to  
9 raise money or investment from, or to obtain access to, a public  
10 retirement system in California, directly or indirectly, including,  
11 without limitation, through an investment vehicle.

12 SEC. 2. Section 7513.86 is added to the Government Code, to  
13 read:

14 7513.86. (a) A person shall not act as a placement agent in  
15 connection with any potential system investment made by a state  
16 public retirement system unless that person is registered as a  
17 lobbyist in accordance with Chapter 6 (commencing with Section  
18 86100) of Title 9 and is in full compliance with the Political  
19 Reform Act of 1974 (Title 9 (commencing with Section 81000))  
20 as that act applies to lobbyists.

21 (b) This section does not apply to an employee, officer, director,  
22 equity holder, partner, member, or trustee of an external manager  
23 who spends one-third or more of his or her time, during a calendar  
24 year, managing the assets controlled by the external manager.

25 SEC. 3. Section 7513.87 is added to the Government Code, to  
26 read:

27 7513.87. (a) A person acting as a placement agent in  
28 connection with any potential system investment made by a local  
29 public retirement system shall comply with any applicable  
30 requirements imposed by a local government agency pursuant to  
31 Section 81013, in addition to the requirements of this chapter.

32 (b) This section does not apply to an employee, officer, director,  
33 equity holder, partner, member, or trustee of an external manager  
34 who spends one-third or more of his or her time, during a calendar  
35 year, managing the assets controlled by the external manager.

36 SEC. 4. Section 82002 of the Government Code is amended  
37 to read:

38 82002. (a) “Administrative action” means ~~the~~ *either of the*  
39 *following:*

1 (1) *The proposal, drafting, development, consideration,*  
 2 *amendment, enactment, or defeat by any state agency of any rule,*  
 3 *regulation, or other action in any ratemaking proceeding or any*  
 4 *quasi-legislative proceeding, which shall include any proceeding*  
 5 *governed by Chapter 3.5 (commencing with Section 11340) of*  
 6 *Part 1 of Division 3 of Title 2.*

7 (2) *With regard only to placement agents, the decision by any*  
 8 *state agency to enter into a contract to invest state public*  
 9 *retirement system assets.*

10 (b) “*Ratemaking proceeding*” means, for the purposes of a  
 11 proceeding before the Public Utilities Commission, any proceeding  
 12 in which it is reasonably foreseeable that a rate will be established,  
 13 including, but not limited to, general rate cases, performance-based  
 14 ratemaking, and other ratesetting mechanisms.

15 (c) “*Quasi-legislative proceeding*” means, for purposes of a  
 16 proceeding before the Public Utilities Commission, any proceeding  
 17 that involves consideration of the establishment of a policy that  
 18 will apply generally to a group or class of persons including, but  
 19 not limited to, rulemakings and investigations that may establish  
 20 rules affecting an entire industry.

21 SEC. 5. No reimbursement is required by this act pursuant to  
 22 Section 6 of Article XIII B of the California Constitution because  
 23 the only costs that may be incurred by a local agency or school  
 24 district will be incurred because this act creates a new crime or  
 25 infraction, eliminates a crime or infraction, or changes the penalty  
 26 for a crime or infraction, within the meaning of Section 17556 of  
 27 the Government Code, or changes the definition of a crime within  
 28 the meaning of Section 6 of Article XIII B of the California  
 29 Constitution.

30 SEC. 6. The Legislature finds and declares that this bill furthers  
 31 the purposes of the Political Reform Act of 1974 within the  
 32 meaning of subdivision (a) of Section 81012 of the Government  
 33 Code.