



California Corporate & Securities Law

Governor Signs Flawed Placement Agent Bill

Posted In [Broker-Dealers](#), [CalPERS/CalSTRS](#), [Investment Advisers](#), [Legislation](#)

10-1-2010

Yesterday, Governor Arnold Schwarzenegger signed [AB 1743](#) (Hernandez). As discussed in previous posts, this bill will required placement agents for funds and advisers seeking access to CalPERS to register as lobbyists. As such, they will not be able to obtain success fees. Marc Lifsher provides more background on AB 1743 in this *Los Angeles Times* [article](#).

The California Public Employees Retirement System (CalPERS) sponsored the bill. Although CalPERS did seek input from interested persons and me regarding the bill, the final bill is not a polished product and I've already received several calls regarding interpretational issues.

Coincidentally, CalPERS also published yesterday a [notice of modification](#) of its proposed placement agent disclosure regulation. The modification is intended to make it clear that placement agents must report gifts and campaign contributions made to all Board members as well as to persons who have the authority to appoint persons to the CalPERS Board. These are the Governor, the Speaker of the Assembly, and the members of the Senate Rules Committee. Interestingly, the proposed rule does not appear to require disclosure of gifts and campaign contributions to losing candidates for positions that have the authority to appoint persons to the CalPERS Board. This is not consistent with the Securities and Exchange Commission's recently adopted "time out" [Rule 206\(4\)-5](#) for investment advisers which appears to cover contributions to both successful and unsuccessful candidates. Nor is this approach consistent with the Municipal Securities Rulemaking Board's interpretation of Rule G-37 (See [FAQ II.22](#))

Please contact [Keith Paul Bishop](#) at Allen Matkins for more information kbishop@allenmatkins.com

<http://www.calcorporatelaw.com/>