

# Myths and Facts About AB 1743 (Hernandez)

## FACTS ABOUT AB 1743 (Hernandez)

- ***Promotes transparency and accountability in public pension fund investments.*** This measure seeks to cast sunshine on the shadowy activities of investment middlemen (known as placement agents) and protect the CalPERS and CalSTRS investment funds from their undocumented influence. The activities of former CalPERS board members and others employed as placement agents have cast a cloud of uncertainty over the funds vulnerability to influence peddlers. One former board member, Alfred Villalobos, received at least \$50 million from Apollo Global Management, a financial holding company which has assets under management of \$53.6 billion. Apollo has benefited from billions in CalPERS investments.

Under this bill placement agents can still lobby for CalPERS and CalSTRS investments on behalf of a client, but they must comply with the state's lobbying laws.

AB 1743 protects workers, retirees and taxpayers by shining a bright light on personal or political persuasion used to influence CalPERS and CalSTRS investment decisions.

- ***Does not preclude placement agents from conducting business.*** The lobbyist provisions will apply to placement agents who lobby CalPERS and CalSTRS only, not the thousands of other public and private investors in this state. Placement agents will only be subject to local agency lobbying restrictions where they exist.
- ***Existing lobbyist laws have not inhibited the performance of that industry.*** History indicates that subjecting placement agents to lobbyist rules won't be an end their industry. The same argument was leveled against the Political Reform Act (PRA) when it was enacted in 1974. The PRA has done nothing to limit the lobbyist industry: instead lobbyist ranks have swelled and today every Californian has access to representation, oftentimes at no cost to them.

## MYTHS

- ***This bill will end contingency fees.***

**FACT:** AB 1743 prohibits contingency fees for placement agents working with CalPERS and CalSTRS only, not the thousands of other public and private investors in the state and nation. Placement agents working with CalPERS and CalSTRS can still be compensated at the same amount they are currently. Placement agent compensation arrangements in other states—where placement agents have not already been banned—will be unaffected.

- ***A ban on fees gives an advantage to large funds, which can use bonuses and other incentive measures to enhance pay.***

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**FACT:** Less than half of small funds use placement agents, and CalPERS has an investment officer whose chief job is to be a single point of contact for small and emerging managers. On the contrary, some small and emerging firms have reported that placement agents cherry pick the larger, higher-paying clients and ignore the smaller ones. This bill will actually level the playing field for smaller, emerging manager firms.

- ***AB 1743 will hurt minority and emerging managers who won't have fair access to CalPERS and CalSTRS fund managers.***

**FACT:** CalPERS and CalSTRS are actively engaged in identifying and doing business with minority firms and cultivating emerging managers.

### ***CALPERS***

CalPERS's efforts to reach out are disciplined and comprehensive:

- In 1991, actively began an effort to retain emerging managers in underserved sectors of the United States.
- In 2000, launched the Manager Development Program, in which CalPERS invests in small and emerging firms in exchange for an equity stake.
- In 2008, launched the Emerging Manager Fund of Funds Program, in which fund of funds managers assemble a portfolio of small and emerging managers.
- Total investment in both programs is almost \$2 billion.
- In 2001, launched the California Initiative, providing capital to minority and women-owned or managed companies. Nearly \$1 billion has been committed.
- In 2007, launched Fund of Emerging Hedge Funds Program, committed \$450 million to smaller managers; run by three women-owned fund managers.
- New Investment Officer for Diversity hired to be eyes and ears in marketplace for emerging managers and diversity issues and an industry point of contact.
- New Investment Proposals Mailbox enables money managers to directly e-mail CalPERS Investment Office with their proposals. More than 100 have been received since February 2010 launch.
- Frequently holds workshops for emerging managers and minority firms on how to do business with the Fund, including a February 2010 event that drew nearly 100 fund managers from around the country.
- Actively working with a number of professional and non-profit organizations on diversity issues.
- The industry itself has shown that placement agents aren't necessary in the majority of cases:
  - In 2009, about 80 percent of funds responding to a CalPERS request for information on the use of placement agents reported they did not use one in soliciting business with CalPERS.
  - About 91 percent of funds in the Fund of Emerging Hedge Funds said they did not use a placement agent in seeking CalPERS business.
  - Two-thirds of private equity funds and 56 percent of real estate funds identified as having diversity ownership said they did not use a placement agent when seeking to do business with CalPERS.

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### *CALSTRS*

The California State Teachers' Retirement System(CalSTRS) has a longstanding commitment to fostering the creation of and supporting active emerging managers in their investment strategies.

CalSTRS believes that in order to ensure diversity in the management of investments one must obtain exposure to a wide gamut of investment opportunities and talent, and this exposure must be acquired in a comprehensive and strategic manner, consistent with the direction that the CalSTRS Board has given through its core values. Specifically, Diversity in the Management of Investments ("DMI") operates under the CalSTRS core value of:

*Strength – We ensure the strength of our system by embracing a diversity of ideas and people.*

This is accomplished with an Investments staff that is multi-ethnic and multi-cultural.

### *Awards/Recognition*

*NAIC Award of Excellence.* The National Association of Investment Companies (NAIC) Board of Directors selected a CalSTRS' Portfolio Manager as the recipient of the Award of Excellence at their 38<sup>th</sup> Annual Convention in October 2008. Although the award is bestowed to an individual person that has demonstrated personal achievement in their careers, and has made outstanding contributions through influence and/or direct actions to the promotion and benefit of minority business ownership; it recognizes public sector leadership and the team that has championed and supported the individual receiving the award. It is an honor that is bestowed to everyone within the CalSTRS Investments team.

*The Chairman's Award for Leadership in Diversity.* CalSTRS Investments received the Association of Asian American Investment Managers (AAAIM) Chairman's Award for Leadership in Diversity in September 2008. Chairman Dillon accepted the award for CalSTRS. The award recognizes CalSTRS Investments leadership efforts in promoting diversity in the management of investments.

*Pacesetter Award.* CalSTRS Investments received the National Association of Security Professionals (NASP) Pacesetter Award in June 2008. NASP is an organization that helps people of color and women level the playing field in the financial securities industry.

*NAA Award.* The 2006 Distinguished Service Award for Advancing Latinos in American Business was awarded to Christopher J. Ailman, CalSTRS Chief Investment Officer (CIO) by the NAA during a ceremony at the Sixth Wall Street Summit in New York City.

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### *Mentoring Efforts*

For some time, CalSTRS Investments has comprehensive efforts in mentoring students from all walks of life, but particularly minority and women students. CalSTRS continue to reach out to these students through a student intern program in all levels of higher education – for post graduate, undergraduate, and community college – through local colleges and universities. The majority of the students involved in the program are from underrepresented groups on Wall Street.

### *Post Graduate Education*

The CIO and staff are advisors of the Robert Toigo Foundation. CalSTRS Investments has had a long-standing strategic alliance with the Toigo Foundation, an organization whose mission is “*to change the face of finance.*” CalSTRS CIO, Christopher Ailman, and Portfolio Manager Solange Brooks, are Advisory Board members. Ms. Brooks has been selected as Chairman of the Advisory Board beginning July 2009. The mission of the organization is to encourage greater minority presence at senior levels across all areas of finance.

Through its fellowship program, the organization provides minority MBAs a gateway to a circle of opportunity: first, as recipients of all Toigo has to offer, then, when they have established their careers, as donors — sharing expertise, fostering innovation and forging alliances to promote the Toigo mission.

### *Leadership*

2005/2008 Database: The Emerging Manager Financial Service Provider (EMFSP) Database – CalSTRS in partnership with CalPERS, commissioned Altura Capital to compile a database of emerging managers and other financial service providers as part of an ongoing effort to find untapped talents in the emerging space. This effort was the first of its kind and the EMFSP database report was shared with industry peers across the country and has become an industry reference guide that promotes information transparency. The Database has received recognition and praise from multiple financial industry sources.

The 2008 EMFSP report gave an account of the growth of the database to 1,035 firms from 721 reported in 2007 – a 44% growth rate. The updated EMFSP report shows more than 21% of the participating firms are from California, which makes California the second most popular state for emerging managers after New York at 24%.

Diversity in the Management of Investments -- Best Practice Survey: Investments conducts periodic surveys among its managers in order to better understand the trends and to learn the best practices from our partners in the finance industry. The results are presented to the CalSTRS Board, the statistics are reported collectively by each asset class to identify the larger aggregate trends in the financial industry. This provides an opportunity for our

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partners to share with us any best practices in the diversity area, as well as their diversity composition.

### *Strategic Alliances*

CalSTRS Investments is a member of the New America Alliance, an organization of American Latino business leaders committed to leading the process of Latino empowerment and wealth-building by expanding the forms of capital most crucial for economic advancement, including economic capital, political capital, human capital, and philanthropy. Founded in 1971, the National Association of Investment Companies (NAIC) is the industry association for private equity firms that invest in an ethnically diverse marketplace, in what has been identified as the US Emerging Domestic Market (EDM). The EDM is one of the fastest-growing sectors of the US private equity investment market. “EDM” is a term used to describe the geography and demography of markets traditionally underserved by the financial services industry. These include markets serving individuals of Asian American, African American, Latino, Native American and other ethnic backgrounds as well the businesses they own and the enterprises that primarily serve their communities. With more than \$10 billion in combined capital under management, NAIC member companies invest in privately held businesses that have a high probability of growth and the ability to generate significant returns for investors and shareholders.

CalSTRS staff is working with the NAIC Chair and a select group of women in private equity to form a coalition of women of color – women from racially and culturally diverse backgrounds – to support each other. The shared vision is to provide and enhance leadership capacity among women in private equity and develop culturally relevant approaches to better assist, increase awareness, and inspire young women in communities of color to pursue taking part in private equity and the EDM space.

Active participation in the American Association of Asian Investment Managers (AAAIM), an alliance of prominent, successful Asian American leaders serving as a conduit between Asian American investment managers and institutional pension funds. AAAIM promotes excellence in Asian American investment professionals and fosters unity in the Asian American community at large.

Active participation in The Marathon Club, an organization focused on increasing the availability and investment of private equity capital into enterprises that have significant minority ownership and management participation. The regional receptions provide a venue for successful Hispanic, African-American and Asian-American business leaders to come together and build strategic relationships that can further their wealth-creation and enterprise development strategy.

CalSTRS CIO is part of the Board of Directors, and former Chairman, for the Pacific Pension Institute, a member-driven, nonprofit educational organization that assists pension funds, corporations, financial institutions and endowments worldwide with carrying out their fiduciary responsibilities, especially with respect to Asia and the Pacific region.

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*Inner City Capital Connections:* Banc of America Capital Access Funds and the Initiative for a Competitive Inner City (ICCC) are the creators and primary hosts of this event. ICCC is a national program designed to stimulate equity capital flow to inner city underserved markets, by matching inner city businesses with investors. ICCC Chicago 2007 was the 4<sup>th</sup> event of its kind, following successful programs in Los Angeles (2005), New York (2006), and Miami (2006). The program is designed to 1) provide companies with the educational tools and coaching on what equity capital is, what equity capital providers are looking for, what are the key elements of a company presentation, and how to best go about raising equity capital, and 2) facilitate the connections between inner city entrepreneurs and equity capital investors.

*Toigo Foundation:* A long-standing strategic alliance has been with the Toigo Foundation, an organization whose mission is “*to change the face of finance.*” CalSTRS CIO, Christopher Ailman, and the Investment Officer for California Investments, Solange Brooks, are Advisory Board members. The mission of the organization is to encourage greater minority presence at senior levels across all areas of finance.

### *Joint Efforts with Legislative Groups*

*2007-2008 Emerging Domestic Market Working Group:* Assemblyman Arambula, Chair of the Assembly Committee on Jobs, Economic Development and the Economy and Assembly Budget Subcommittee on State Administration and the Latino Caucus assembled a working group on how to attract more private investments to California’s historically underserved capital markets. CalSTRS CIO and Staff are part of the Working Group that includes investors, financial professionals, and economic and community developers whose goal is to craft strategies and models to increase private investment opportunities in emerging domestic markets. The Working Group has convened in fall 2007, with an initial report prepared in January 2008. In May 2008, the Working Group convened a Fund-to-Fund Investor Roundtable on Emerging Domestic Markets at California State University, Fresno. The Advisory Group participated in the Hispanic Chamber of Commerce National Conference in September 2008.

### *Joint Conferences*

California has the two largest public pension plans in the country. In an industry where size matters, CalSTRS are cognizant of the importance of multi-billion portfolios and investment activities across the country. While the single primary purpose of our investments is to achieve the desired return to secure the financial future of our respective funds, CalSTRS recognize that many investment activities have multiple ancillary benefits, creating economic value and benefits that enhance the greater good. It is with this understanding that the two funds have joined forces in influencing the attitude towards diversity in the management of investments. Thus, CalSTRS have united our voices and efforts to make a greater impact. Specifically:

- *Diversity on Corporate Boards* – a workshop held at Stanford University on September 10, 2009, hosted by our Corporate Governance team. Co-sponsored by CalPERS.
- *The Women in Investments Conference* was held on February 10, 2009 in Sacramento. Co-sponsored by CalPERS.

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- CalPERS agreed to co-sponsor the EMFSP database with CalSTRS and Altura Capital.
- In September 2007, again CalSTRS joined with other pension plans - CalPERS, The Los Angeles City Employees' Retirement System, Los Angeles Fire and Police Pensions, and Los Angeles County Employees Retirement Association - to host the *California Pension Fund Investment Conference - A Golden Opportunity* to promote investments by the pension plans in the Golden State. The second day of the conference included a trustee-only workshop where discussion about fiduciary responsibility was the focus. One cannot speak about investing in California without addressing investing with a diverse manager pool and diverse ideas. The conference was very successful with over 400 attendants.
- In April 2006, CalSTRS and CalPERS hosted a *Diversity Conference* in San Jose.
- In April 2005, CalSTRS and CalPERS hosted a *Clean Tech/Green Investing Conference* in San Jose.

CalSTRS and CalPERS have also joined forces and hold investment workshops hosted by California Asian Pacific Islander Legislative Caucus and the Legislative Black Caucus. In addition to the Caucus mentioned above, the next workshop planned for February 10, 2010 will be hosted by the California Latino Legislative Caucus, the California Legislative Women's Caucus and the California Legislative Lesbian, Gay, Bisexual and Transgender Caucus.