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Assembly committee passes bill to ban contingency fees on fund investments

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A proposal to rein in pension fund placement agents survived its first test in the Legislature on Wednesday but remains under fierce attack from the securities industry.

Assembly Bill 1743 would ban contingency fee payments to placement agents – middlemen hired by investment firms to get deals from the California Public Employees' Retirement System and other public pension funds. Agents would have to register as lobbyists.

The ban on contingency fees has the support of CalPERS, which is caught up in a scandal over agents' activities, but is running into opposition from Wall Street. It was passed by the Assembly Public Employees, Retirement and Social Security Committee, 4-1, with one abstention.

Committee Chairman Albert Torrico said the bill's future is iffy. It must go through two more committees and needs a two-thirds majority for ultimate passage because it would change the Political Reform Act.

"It's going to be a close call," said Torrico, D-Fremont.

Contingency fees, usually 1 percent of a deal, can run into millions of dollars. Placement agent Alfred Villalobos, a former CalPERS board member, has earned $60 million in fees off CalPERS deals.

The fees are "an invitation to corruption," State Treasurer Bill Lockyer, a CalPERS board member, told the committee. He noted that the Legislature banned contingency fees for lobbyists decades ago.

Industry officials, led by Wall Street investment firm Blackstone Group, the Securities Industry and Financial Markets Association and others, said they back much of AB 1743 – except the ban on contingency fees.

The ban would cripple small investment firms, including those run by women and minorities, which lack the staff to pitch deals themselves to funds like CalPERS, said Lisa Roth, a San Diego investment firm executive representing the Third Party Marketers Association.

But Joseph Dear, CalPERS chief investment officer, said his fund aggressively reaches out to women- and minority-owned firms. Anyone with a promising deal can find an audience at CalPERS, he said, even without a placement agent to do their bidding.

Most of CalPERS' private equity partners don't hire placement agents, Dear said. Of those that do hire them, most are big, established Wall Street firms, he said.

"The opposition (to the ban) is from the big guys," Lockyer said.

The bill's author, Assemblyman Ed Hernandez, D-West Covina, said he'd re-examine the bill to make sure the small firms aren't hurt. Hernandez said he won't remove the ban on contingency fees, though, calling it "the most important part of the bill."

Dan Prendergast of Park Hill Group, a San Francisco placement agent firm owned by Blackstone, said agents screen out bad deals and present only worthwhile deals to pension funds. Prohibiting contingency fees would destroy the industry, he said.

"Eighty-five percent of the revenue would dry up in California," he said in an interview.

Park Hill has worked for clients that have gotten business from CalPERS. It's not clear from CalPERS' disclosure documents how much Park Hill has been paid, and Prendergast said he doesn't know.

One of Park Hill's former employees, Julio Ramirez Jr. of Los Angeles, pleaded guilty to fraud last May in connection with a pension fund scandal in New York. He was charged with making deals to pay fees to an adviser to New York's controller, who oversees that state's public pension fund.

At the time of the payments, Ramirez was working for another placement agent firm, Wetherly Capital of Los Angeles. Wetherly wasn't charged with any wrongdoing but agreed to return $1 million to the New York fund.

Prendergast said Ramirez left Park Hill 16 months ago.