

Date of Hearing: April 22, 2026

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 1869 (Haney) – As Amended April 14, 2026

SUBJECT: Real Estate Investment Trusts: management duties

SUMMARY: Authorizes affected employees at a lodging facility or their representative to provide evidence to the Labor Commissioner (LC) or their designee that a real estate investment trust (REIT) or a taxable REIT subsidiary is directly or indirectly operating or managing a lodging facility, as specified. Requires the LC to, within 45 days of receipt, provide the affected employee or representative a written response to the submission, and to forward a copy of that response to the Franchise Tax Board (FTB). Specifically, **this bill:**

- 1) Authorizes affected employees at a lodging facility or their representative to provide evidence to the LC or their designee that a REIT or a taxable REIT subsidiary is directly or indirectly operating or managing a lodging facility by doing any of the following:
 - a) Exercising, or reserving the right to exercise, control over any aspect of the wages, hours, or working conditions of employees at the lodging facility.
 - b) Exercising control over the discretion of another entity, including an eligible independent contractor, to establish any aspect of the wages, hours, or working conditions of employees at the lodging facility through establishing or maintaining an operating budget or operating allowances for the lodging facility, provided that nothing in this clause shall preclude a taxable REIT subsidiary from bearing the expenses for the operation of a qualified lodging facility by an eligible independent contractor pursuant to a management agreement or similar service contract.
 - c) Exercising, or reserving the right to exercise, control over the negotiation, approval, or application of any collective bargaining agreement, or any part of a collective bargaining agreement, covering employees at the lodging facility.
- 2) Requires, at the election of the affected employee or representative, the LC to treat such communication and any related evidence as confidential. The LC shall confirm receipt of that evidence and shall, within 45 days of receipt, provide the affected employee or representative a written response to the submission, and shall forward a copy of that response to the FTB.

EXISTING LAW:

- 1) Allows, in modified conformity with federal income tax law, a corporation, trust, or association that would otherwise be taxable as a domestic corporation to elect to be treated as a REIT if specified requirements are met. Among other things, the law requires that 95% of the entity's income fits into several categories, including rents from real property. IRC §856 and Revenue and Taxation Code §24872.4.

- 2) Excludes from the term "rents from real property" impermissible tenant service income. Impermissible tenant service income, in turn, is defined as any amount received or accrued directly or indirectly by the REIT for:
 - a) Services furnished or rendered by the trust to the tenants of such property; or,
 - b) Managing or operating such property. IRC §856 and Revenue and Taxation Code §24872.4.
- 3) Defines "lodging facility" to mean a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis. IRC §856(d)(9)(D).
- 4) Defines "eligible independent contractor" to mean, with respect to any or any if, at the time such contractor enters into a management agreement or other similar service contract with the to operate such or qualified health care property, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities or qualified health care properties, respectively, for any person who is not a related person with respect to the REIT or the taxable REIT subsidiary. IRC §856(d)(9)(A).

FISCAL EFFECT: Unknown.

COMMENTS: As mentioned in the author's statement below, REITs enjoy special tax treatment under our state tax code. In exchange, the law explicitly prohibits lodging REITs and their taxable REIT subsidiaries from "directly or indirectly operating or managing" the hotels they own. Yet current law lacks clarity as to what actions are categorized as operating or managing a property.

Bill proponents argue that the correct interpretation of the prohibition against "directly or indirectly operating or managing" looks at whether a REIT has "reserved" a right to operate or manage the lodging facility.¹ Reserving a right to do so would violate the prohibition. The management agreement between the REIT and the hotel operator can be evidence of this practice if it does not provide that the hotel operator will have exclusive responsibility for hotel operations. Proponents also contend that a REIT's use of "budgetary power" as a means of controlling workers wages can qualify as directly or indirectly managing a lodging facility because it puts the REIT in the position of joint employer.²

Opponents of the bill argue that the above prohibition is narrower and case specific. They cite a 2024 letter from the Chief Counsel of the IRS to the U.S. Senate Committee on Finance that interprets the prohibition as "depending on facts and circumstances." The letter contends that managing the day-to-day operation of a lodging facility may include "recruiting, hiring, daily supervision, and direction of the employees." Thus, opponents argue that the bill would interpret the prohibition more broadly than in federal tax law, causing inconsistent outcomes.

¹ See IRS Private Letter Ruling, No. 201533006 at 3, 5 (May 15, 2015).

² *Martinez v. Combs*, 49 Cal.4th 35, 69 (2010).

Examples of REITS operating or managing hotels

According to the author's background materials, "evidence that lodging REITs are crossing the line into hotel management is substantial and, in many cases, comes directly from the REITs themselves. During the COVID-19 pandemic, several REIT executives openly described their role in making workforce decisions on earnings calls. Park Hotels & Resorts' CEO discussed targeting housekeeping departments for permanent staffing reductions. DiamondRock Hospitality's CEO stated the company was "combining jobs" and achieving efficiency levels it had "never done before." Host Hotels' CEO described the pandemic as "an opportunity to redefine the hotel operating model." RLJ Lodging Trust reported operating with 47 percent lower wages and benefits compared to prior years as a direct result of its own cost-control measures.

Beyond public statements, actual hotel management agreements obtained from lodging REITs reveal contractual provisions requiring taxable REIT subsidiary approval of employee wages, benefits, and bonuses through budget sign-off, and giving taxable REIT subsidiaries the right to participate in or veto union contract negotiations."

Committee Comments

AB 1869 provides that an affected employee at a lodging facility or their representative may provide evidence to the LC that a REIT is directly or indirectly managing the facility and the LC must *provide a written response* within 45 days of receipt. (Proposed Rev. & Tax Code §24872.4(c)(1)-(2)). As written, it is unclear what the LC's written response would entail. Is it an acknowledgment of the complaint? A detailed analysis of the alleged conduct and a finding of fact? In the future, the author may wish to specify what level of detail is required in a response and if it needs to include a determination as to whether the REIT violated the prohibition on directly or indirectly managing a lodging facility.

Arguments in Support

The California Federation of Labor Unions, AFL-CIO, is in support and states, "REITs that own hotels benefit from a special tax-favored status intended for passive real estate investors. Under both federal law and the California Revenue and Taxation Code, lodging REITs are prohibited from directly or indirectly operating or managing the hotels they own. Instead, hotels must be operated by independent contractors so that the REIT remains a passive investor in real estate rather than an active hotel operator.

Unfortunately, some lodging REITs have crossed this line while continuing to claim the tax advantages associated with passive ownership. In many instances, REITs have become directly involved in operational decisions affecting hotel employees, including setting wages, working conditions, and collective bargaining strategies. These actions undermine the legal framework that allows REITs to receive preferential tax treatment in the first place.

AB 1869 provides important clarification for practices that constitute the "direct or indirect operation or management" of a lodging facility by a REIT. By providing clearer statutory guidance, the bill will help ensure that companies benefiting from favorable tax treatment comply with the rules governing that status.

The bill also establishes a practical mechanism for accountability by allowing hospitality workers to submit evidence to the Franchise Tax Board demonstrating when a lodging REIT may

be operating or managing a hotel. Workers are often the individuals with the most direct knowledge of how decisions affecting wages, staffing, and working conditions are made, and enabling them to provide relevant information will help ensure proper enforcement of existing law.”

Arguments in Opposition

A coalition of business associations, including the California Hotel and Lodging Association, is opposed and states, “Real Estate Investment Trusts (“REITs”) are legal entities specifically created to enable everyday people to pool their retirement savings to invest in large projects, like hotels. These may seem like large companies, but that’s by design – millions of people, including 56 percent of Californians, invest their life savings into these entities directly and through retirement funds in the hopes of earning enough to retire, sending their children to college, and chasing their dreams. In turn, these REITs invest in hotels which fund local governments, create well-paying jobs for Californians, and support the local community.

Assembly Bill 1869 would jeopardize all of their futures and broader California hotel stability by undermining state conformity with federal law through a reporting provision which misrepresents and indirectly contravenes existing law. Under this bill, REITs which are acting within the law would face the threat of fines, penalties, and loss of tax status for standard contract terms and for possessing tools given to them by Congress to protect the interests of those everyday people who invest in hotel REITs. Further, this measure would force at least two state agencies to assume more costs via an unwieldy reporting scheme which would generate no additional compliance benefit.”

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Labor Unions, AFL-CIO
Unite Here International Union, AFL-CIO

Opposition

Advance San Francisco
American Hotel and Lodging Association
Building Owners and Managers Association of California
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Hospitality United Coalition
California Hotel and Lodging Association
California Self Storage Association
California Travel Association
Hotel Association of Los Angeles
Hotel Council of San Francisco
Los Angeles Area Chamber of Commerce
National Association of Real Estate Investment Trusts
Orange County Hotel and Lodging Association
San Diego County Lodging Association

San Francisco Chamber of Commerce
Self Storage Association

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