

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

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

Policy Committee: Labor and Employment

Vote: 5 - 2

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill allows an affected employee of a lodging facility to provide evidence to the Labor Commissioner (LC) about certain activities performed by a real estate investment trust (REIT).

Specifically, this bill:

- 1) Allows an affected employee of a lodging facility or the employee's representative to provide evidence to the LC about certain activities performed by a REIT that constitute direct or indirect operation or management of a lodging facility, such as exercising control over the wages, hours, or working conditions of the facility's employees.
- 2) Requires the LC to confirm receipt of such evidence and requires the LC to provide the affected employee or representative a written response to the submission within 45 days and forward the response to the Franchise Tax Board (FTB).

FISCAL EFFECT:

- 1) Costs of an unknown, but potentially significant amount, in excess of \$150,000, to the LC to receive and review evidence about a REIT's activities and provide a written response to the affected employee and FTB within 45 days (special fund). This bill does not further specify the contents of the written response, so it is unclear whether the LC is expected to investigate the allegation within 45 days and present its findings to the employee and FTB, or produce a more simple acknowledgement of next steps.
- 2) Minor and absorbable costs to FTB to receive the written response from the LC.

COMMENTS:

- 1) **Purpose.** According to the author:

AB 1869 is a straightforward clarification: if a REIT is actively running a hotel, it should not receive a tax benefit meant only for passive owners. The bill defines what conduct crosses that line and gives hotel workers a formal way to report them to the [LC].

This is not a new standard. Federal and California law have always prohibited lodging REITs from directly or indirectly managing the hotels they own. AB 1869 simply makes clear what that means in

practice, closes the ambiguity some REITs have exploited, and ensures California has the tools to enforce its own tax laws.

- 2) **REIT.** The state Corporation Tax (CT) Law 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 certain income requirements are met. Thus, a REIT may avoid entity-level taxation at the general CT rate of 8.84% by acting as a pass-through entity with earnings distributed to shareholders as dividend payments. A REIT is generally restricted to passive investments, primarily in real estate and securities.

In an August 26, 2024 letter to U.S. Senate Committee on Finance, the Chief Counsel of the Internal Revenue Service explains:

Among the requirements a REIT must satisfy are certain income tests. These income tests are generally met if the REIT receives rents from real property, provided that these rents are not from related parties.

An exception to this prohibition on related party rents exists for qualified lodging facilities. If the REIT leases a lodging facility to its taxable REIT subsidiary (TRS) and the TRS contracts with an eligible independent contractor to operate and manage the qualified lodging facility on behalf of the TRS, then the REIT's lease payments from the TRS can qualify as rents from real property.

The law is clear that a TRS may not directly or indirectly operate or manage a lodging facility. If it does, it will lose its special tax status with potentially severe adverse tax consequences for its REIT owner. If a REIT and TRS avail themselves of the exception to the related party rent rule discussed above, operation and management of the qualified lodging facility must be performed by the eligible independent contractor.

Whether the activities of a TRS constitute the direct or indirect management and operation of a lodging facility depends on facts and circumstances. However, as a general matter, a TRS is prohibited from managing the day-to-day operation of the lodging facility, which may include recruiting, hiring, daily supervision, and direction of the employees.

This bill allows an affected employee of a lodging facility to provide evidence to the LC about certain activities performed by a REIT that constitute direct or indirect operation or management of a lodging facility, a potential violation of tax law. This bill requires the LC to confirm receipt of the evidence and provide a written response to the employee within 45 days, which the LC must then forward to FTB, presumably for further investigation concerning the REIT's tax status.

- 3) **Support and Opposition.** This bill is sponsored by UNITE HERE International Union, which argues, "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.” This bill is also supported by other labor organizations.

This bill is opposed by a coalition of hospitality and business groups, led by the California Hotel and Lodging Association, which argues this bill would “undermine state conformity with federal law to introduce instability into California’s hotel industry in a manner that threatens the future of hotels in California, downtown recoveries across the state, and the savings of hard-working Californians.”

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