

## **BILL ANALYSIS**

H.B. 4419  
By: Dunnam  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 1987, the secretary of state did not have statutory authority to accept gifts, grants, or donations to defray the secretary's expenses in receiving and hosting dignitaries from another state or country. The 70th Legislature amended the Election Code to permit the secretary, an appointed officer, to have an officeholder account in the same manner as an elected official. The law provides that the secretary may retain the officeholder account after the secretary leaves office and that the account may be used to fund a campaign for elective office or make a campaign contribution to another person.

The 75th Legislature, Regular Session, 1997, granted the secretary statutory authority to accept gifts, grants, and donations. Because the secretary now has authority to accept gifts, grants, and donations, the need for a separate officeholder account is unnecessary.

H.B. 4419 abolishes the separate officeholder account for the secretary of state; strengthens state oversight of gifts, grants, and donations made to the secretary; requires money and securities donated to the secretary to be held in trust outside the treasury by the comptroller of public accounts in a special fund to be known as the secretary of state extraordinary fund; and provides other provisions regarding the secretary's acceptance and use of gifts, grants, and donations.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTION 2 of this bill.

### **ANALYSIS**

H.B. 4419 amends provisions of the Government Code authorizing the secretary of state to accept or solicit gifts, grants, and donations of money or property, to clarify that the secretary of state is authorized to accept or solicit such items from private persons, foundations, or organizations. The bill establishes that property provided by those entities, and money donated to the secretary, become the property of the state and are under the control of the secretary.

H.B. 4419 requires the secretary to use gifts of money made to the secretary for the purpose specified by the grantor, if any. The bill requires that donations accepted be used for any lawful public purpose related to the office or duties of the secretary, including an officeholder expenditure. The bill defines "officeholder expenditure" to mean an expenditure made by any person to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office and that are not reimbursable with public money.

H.B. 4419 requires the secretary to adopt rules to govern the secretary's acceptance of private gifts, grants, and donations to ensure that the use of the money or property supports the secretary's primary functions.

H.B. 4419 requires money and securities donated to the secretary to be held in trust outside the treasury by the comptroller of public accounts in a special fund to be known as the secretary of state extraordinary fund. The bill requires the comptroller to manage and invest the fund on behalf of the secretary as directed or agreed to by the secretary. The bill requires interest, dividends, and other income of the fund to be credited to the fund.

H.B. 4419 requires the secretary by rule to establish an acquisition policy for accepting property and art objects. The bill establishes that the financial transactions of the secretary made out of the fund are subject to annual audit by the state auditor. The bill requires the secretary to prepare annually a complete and detailed written report accounting for the fund showing all money received and disbursed by the secretary during the preceding fiscal year. The bill requires the report to meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

H.B. 4419 requires the secretary, if on the effective date of the bill the secretary has an officeholder account established under provisions governing the regulation of political funds and campaigns, to terminate the account on such date and remit any unexpended contributions in that account to the comptroller for deposit to the credit of the secretary of state extraordinary fund, to one or more persons from whom political contributions were received in accordance with the law on the disposition of unexpended contributions, or to both the comptroller and such a person or persons.

H.B. 4419 makes certain provisions relating to the regulation of political funds and campaigns inapplicable to the secretary of state.

#### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.