HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 11, 2017
85th Legislature, Number 48
The House convenes at 10 a.m.

Twelve bills appear on the daily calendar for second reading consideration today. They are listed on the following page.

The following House committees were scheduled to hold public hearings: Environmental Regulation in Room E1.026 at 8 a.m.; Homeland Security and Public Safety in Room E2.014 at 8 a.m.; Insurance in Room E2.016 at 8 a.m.; Public Education in Room E2.036 at 8 a.m.; Public Health in Room E2.012 at 8 a.m.; Urban Affairs in Room E2.028 at 10:30 a.m. or on adjournment; Culture, Recreation and Tourism in Room E1.010 at 2 p.m. or on adjournment; Investments and Financial Services in Room E2.010 at 2 p.m. or on adjournment; and Judiciary and Civil Jurisprudence in Room E2.026 at 2 p.m. or on adjournment.

Dwayne Bohac
Chairman
85(R) - 48

HOUSE RESEARCH ORGANIZATION

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SUBJECT: Prohibiting localities from taxing compressed or liquefied natural gas

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — D. Bonnen, Y. Davis, Bohac, Darby, Johnson, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

WITNESSES: For — (*Registered, but did not testify*: Matt Grabner, Ryan, LLC; Stephen Minick, Texas Association of Business)

Against — None

On — (*Registered, but did not testify*: Joseph Scanio, Comptroller of Public Accounts)

BACKGROUND: Tax Code, sec. 162.014 prohibits localities from imposing taxes on the sale, use, or distribution of gasoline, diesel fuel, or liquefied gas.

HB 2148 by Hilderbran, enacted by the 83rd Legislature in 2013, redefined "liquefied gas" to exclude compressed or liquefied natural gas.

DIGEST: HB 1351 would prohibit localities from imposing taxes on the sale, use, or distribution of compressed or liquefied natural gas.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY: HB 1351 would correct an unintended change made by previous legislation allowing a locality to tax compressed or liquefied natural gas. No locality currently imposes a tax on compressed or liquefied natural gas, but the Legislature should fix this unintentional change in law as the state already imposes a 15-cent-per-gallon tax on these fuels.

OPPONENTS SAY: No apparent opposition.

NOTES: A companion bill, SB 1120 by Zaffirini, passed the Senate unanimously on April 6.

SUBJECT: Creating a grant program to reduce workplace violence against nurses

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Collier, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

WITNESSES: For — Julie Chicoine, Texas Hospital Association; Cindy Zolnierek, Texas Nurses Association; (*Registered, but did not testify*: Sally McCluskey, Angelo State University; Jennifer Henager, Central Texas Regional Advisory Council; Wendy Wilson, Consortium of Texas Certified Nurse-Midwives; Eric Woomer, Federation of Texas Psychiatry; Christine Reeves, Heart of Texas Regional Advisory Council; Gyl Switzer, Mental Health America of Texas; Jessica Cox, NAPNAP, NANN, AWHONN; Claire Jordan, Nurses; Anthoney Farmer-Guerra, Spread Hope Like Fire; Danielle Roberts, Tarrant County College Nursing (NSA); Josette Saxton, Texans Care for Children; Sarah Mills, Texas Association for Home Care and Hospice; Courtney DeBower, Texas EMS, Trauma and Acute Care Foundation (TETAF); Joel Ballew, Texas Health Resources; Daniel Finch, Texas Medical Association; Teresa Acosta, Brittany Anderson, William Barbre, Savannah Bobbitt, Chrystal Brown, Kelley Bryant, Cathryn El Burley, Cassandra Campbell, Ashley Carter, Connie Castleberry, Naomi Clifton-Hernandez, Kelsey Crawford Spelce, Tamatha Dayberry, Jenny Delk-Fikes, Margie Dorman-O'Donnell, Taylor Dotson, Tammy Eades, Elizabeth Eckersley, Debra Fontenot, Patricia Francis, Patricia Freier, Gabrielle Frey, Natalie Garry, Kimberley Grant, Linda Green, Ruth Grubesic, Avis Harris-Caldwell, Janice Hawes, Maria Hayes, Toni Henderson, Lisa Herterich, Cynthia Hill, Geoff Hughes, Karen Jeffries, Laura Kidd, Cheryl Lindy, Anita Lowe, Kate MacLean, June Marshall, Judy Martin Morgan, Alberta May, Amy McCarthy, Janice Miller, Sybil Momii, Rene Monjaraz, Patricia Morrell, Katherine Mulholland, Prudence Nietupski, Amy Pickett, Rebekah Powers, Carol Randolph, Mary Rivard, Lorraine Royster-Hibbert, Dorothy Sanders-Thompson, Aletha Savage, Darla Smith, Rebecca Smith, Jill Steinbach, Tonya Taylor, Karen Timmons, Gabriela Torres, Whitney

Vanderzyl, Jeff Watson, Ramona Wesely, and Eugenia "Jeanie" Zelanko, Texas Nurses Association; Patricia DeFrehn, Texas Nurses Association, Nurse Executives; Shayla Larsen, TNA, TCC Nursing; Joe Luna and Francis Luna, Texas School Nurses Organization; Emily Alexanderson, Seaneila Angeles, and Melinda Hester, Texas State University School of Nursing; Michelle Stokes, TNSA; Candice Ford and Susan McKeever, TSNA; Nancy Walker, University Health System/Bexar County; Leslie Ash, Taylor Colbert, Chelsea Ragas, Rebecca Carrasco, and Betty Ashcraft, University of Texas at Tyler; and 27 individuals)

Against — None

On — (*Registered, but did not testify*: Chris Aker and Mike Maples, Department of State Health Services; Mark Majek and Katherine Thomas, Texas Board of Nursing)

BACKGROUND: Health and Safety Code, sec. 105.002 establishes a nursing section (Texas Center for Nursing Workforce Studies (TCNWS)) within the health professions resource center under the governance of the statewide health coordinating council at the Department of State Health Services. The TCNWS collects and analyzes workforce data on nurses in Texas.

The statewide health coordinating council may fund the TCNWS with surcharges ranging from $2 to $5 on vocational nurse and registered nurse license renewals collected by the Texas Board of Nursing as authorized by the Nursing Practice Act, Occupations Code, sec. 301.155.

DIGEST: HB 280 would require the Texas Center for Nursing Workforce Studies (TCNWS), to the extent funding was available, to administer a grant program to fund innovative approaches for reducing verbal and physical violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies. The TCNWS could fund the grants using money transferred from the Texas Board of Nursing to the statewide health coordinating council at the Department of State Health Services (DSHS).

The TCNWS would require a grant recipient to submit periodic reports describing the outcome of activities funded through the grant, including

any change in the severity and frequency of verbal and physical violence against nurses. At least annually, the TCNWS would publish a report describing the grants awarded, including the amount and purpose of each and the reported outcome of each grant recipient's approach.

The TCNWS advisory committee would serve in an advisory capacity for the grant program, and DSHS would provide administrative assistance.

As soon as practicable after the effective date, the Health and Human Services Commission executive commissioner would adopt the rules necessary to implement the grant program.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 280 would help alleviate the trauma of workplace violence for nurses and patients. Workplace violence against nurses is a frequent occupational hazard, primarily from patients, patients' families, and visitors, and can take the form of intimidation, beatings, stabbings, shootings, and stalking. The bill would provide grants to hospitals and other health facilities to implement innovative approaches unique to each facility and region to reduce the severity and frequency of these occurrences.

The bill would not mandate one approach for all health facilities, but implementing unique approaches would require some initial funding. To the extent funding was available, existing revenue generated from nursing license and renewal applications would fund the program under HB 280, an approach supported by nurses. The bill would make no change to the statutory licensing renewal surcharge limit.

HB 280 also would help address the nursing shortage in Texas by allowing health care facilities to make their workplaces safer, reducing turnover. An unsafe workplace is not conducive to sustaining employment of nurses. An *Atlantic* magazine article reported a 110 percent spike in the rate of violent incidents reported against health care workers in the past decade. A study conducted by the Department of State Health Services found that roughly half of nurses experience physical violence during their careers but do not report it because they consider it an expected part of the job.

The bill would require grant recipients to report on the outcomes of their implemented innovations, including the change in the severity and frequency of verbal and physical violence against nurses. Data from the approaches used by grant recipients would be published by the Texas Center for Nursing Workforce Studies (TCNWS) and could be shared across the state to prevent these types of incidents from occurring in other health care facilities.

The bill would require no general revenue funds and has a fiscal note of $0. Both the House and Senate versions of the fiscal 2018-19 general appropriations act include Rider 3 in Article 8 to fund the TCNWS using funds from the Texas Board of Nursing. The bill would make no change to the $5 cap in existing law for nursing license surcharges. The Board of Nursing also recently reduced their licensing fees.

Nursing professional associations have asked for the TCNWS to administer the grant program using funds from the Board of Nursing, the state agency that licenses nurses. The TCNWS is best suited as a neutral party to disburse the grants to healthcare facilities and administer the competitive grant process, which requires specific expertise available at the center. Violence against nurses is not specific to one negligent workplace but is more widespread. The availability of civil actions has not prevented this from being a pervasive problem, and in any event, nurses may not have resources to file in civil court.

OPPONENTS SAY:

While HB 280 would fund the grant program through surcharges on renewals of nursing licenses, the bill could lead to an increase in those surcharges or provide the legal basis for an appropriation of funds.

OTHER OPPONENTS SAY:

A non-government entity, such as a nursing professional association, would be better suited than the TCNWS to implement the grant program proposed by HB 280. This is essentially an issue between employers and employees, and in cases of gross negligence, employees have access to civil courts.

NOTES:

The Legislative Budget Board (LBB) estimates the bill would have a net impact of $0 through fiscal 2019 but could provide the legal basis for an

appropriation of funds. The LBB's methodology assumes the grant program would be funded by an increase in the surcharge to the maximum allowed by statute: from $2 to $3 for vocational nurse license renewals and from $3 to $5 for registered nurse license renewals.

SUBJECT: Establishing automatic criminal record expunction for certain veterans

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson

0 nays

WITNESSES: For — Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Lashondra Jones, Catholic Charities; Ellen Arnold, Goodwill Central Texas, Texas Association of Goodwills; Andrea Keilen and Shea Place, Texas Criminal Defense Lawyers Association)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 55.01 entitles a person who has been arrested for the commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged in certain instances. Some circumstances that may result in expunction of arrest records include an acquittal following a trial, a pardon following a conviction, or an indictment that was dismissed or quashed for various reasons.

Government Code, ch. 124 establishes the veterans treatment court program, a specialty court program through which pending criminal cases involving veterans or members of the armed forces may proceed under some circumstances. If a veterans treatment court determines that a dismissal is in the best interest of justice after the defendant has completed the program, the original court in which the case is pending is required to dismiss the case.

DIGEST: HB 322 would establish a process for the automatic expunction of arrest records for defendants who had completed a veterans treatment court program under certain conditions. If upon a defendant's successful completion of a program the veterans treatment court determined that a dismissal was in the best interest of justice, it would have to provide the trial court information about the dismissal, including all information required for a petition for expunction. If the trial court was a district court,

it would have to enter an order of expunction within 30 days after a case was dismissed. Otherwise, the trial court would be required to forward the appropriate dismissal and expunction information to a district court in the same county. A court would be required to waive any fee or cost associated with the expunction.

The bill would take effect September 1, 2017, and would apply to a person who successfully completed a veterans treatment court program before, on, or after that date. The section relating to fees charged or costs assessed for an expunction order would apply only to an order entered on or after September 1.

SUPPORTERS SAY:

HB 322 would entitle veterans who successfully completed a veterans treatment court program to have their arrest records automatically expunged for no cost, which would help veterans lead a productive life by allowing them to return to the workforce and housing market without a record.

Many veterans face challenges when returning to civilian life that often are exacerbated by a mental illness or disorder resulting from their military service. These conditions can lead to substance abuse issues and involvement in the criminal justice system, which can result in a criminal record that limits the veteran's job and housing opportunities. Veterans treatment courts offer a treatment-based program that involves intensive psychological and drug and alcohol counseling aimed at rehabilitation and reducing recidivism. Participation is subject to the consent of the prosecuting attorney, and most participants are veterans or current military personnel who suffer from a brain injury or mental illness or disorder or were victims of sexual trauma related to military service that affected the defendant’s criminal conduct at issue in the case. Establishing a process for automatic expunction would further the mission of these programs by creating an incentive for eligible veterans to improve mental health recovery and enable successful re-entry into the community.

A veteran already entitled under current law to have his or her records expunged by completing a veterans treatment court program may delay or avoid petitioning for expunction due to high costs. The procedure for expunction requires filing a petition, often with the assistance of an

attorney, and paying court and processing fees. These costs can be onerous when added to those already associated with the treatment court, including drug testing, counseling, and probation fees. HB 322 would relieve this cost burden for veterans who had completed treatment court programs and would expedite the process for those already eligible. Courts already process automatic expunctions in certain cases. In these situations, fees are waived regardless of a defendant's ability to pay. This bill merely would extend this existing practice to all veterans who complete the veterans treatment court program.

OPPONENTS SAY:

HB 322 would require an unnecessary automatic fee waiver. Defendants seeking record expunction already have the ability to petition for a fee waiver due to financial hardship, and a judge has the discretion to waive the fees upon a determination of indigence or at the request of an attorney.

SUBJECT: Requiring a report on the transition from military service to employment

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson

0 nays

WITNESSES: For — Norma Bremmer and Lashondra Jones, Catholic Charities; Adrienne Evans-Quickley, Womens Army Corps Veterans Association; (*Registered, but did not testify*: Mackenna Wehmeyer, Career Colleges and Schools of Texas; Ned Munoz, Texas Association of Builders; James Thurston, United Ways of Texas; Romaine Barnett and Olivia Bush, Women Veteran Services, Catholic Charities)

Against — None

On — Bob Gear, Jr., Texas Workforce Commission; (*Registered, but did not testify*: Tim Shatto, Texas Veterans Commission)

DIGEST: HB 257 would require the Texas Workforce Commission, in consultation with the Texas Coordinating Council for Veterans Services, to submit an annual report that identified:

- the five most common military occupational specialties of service members who were transitioning from the military to civilian employment;
- the five occupations for which the identified military occupational specialties best offer transferable skills; and
- any industry-based certifications that align with the identified military occupational specialties.

The report also would include any useful information for supporting the transition of service members and veterans into the workforce identified by the commission in administering the College Credit for Heroes program.

The commission would submit the report no later than September 1 of each year to the governor, lieutenant governor, the House speaker, and chairs of the legislative committees with appropriate jurisdiction. The first report would be due by September 1, 2018.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 257 would help address the employment gap many members of the military experience while transitioning into the workforce. The collection of data required by the bill would be aimed at connecting employers with returning military personnel with relevant occupational experience.

Returning military personnel often experience difficulty searching for employment because it is not always obvious how they can use their skillsets in civilian settings. No effective means is currently available to compile employer and workforce data to help strengthen existing workforce pipelines for the growing population of returning service personnel. The report required by the bill would address this by identifying the top military occupational specialties and their civilian equivalents, which is critical to helping veterans expedite their transition back into the civilian workforce.

This bill also would help industries address labor shortages by providing employers with data to help them determine which military specialties can be integrated into the workforce. Not all military occupational specialties translate to civilian settings as expected, so the report required by HB 257 could help employers match opportunities with transferrable skills and bridge the gap between military and civilian employment.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, SB 1457 by Buckingham, was left pending on April 5 in the Senate Committee on Veteran Affairs and Border Security.

SUBJECT: Licensing military dentists and dental hygienists for charitable work

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson

0 nays

WITNESSES: For — Todd Perrin, Greater Killeen Free Clinic; Jody Hopkins, Texas Association of Charitable Clinics; (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America; Jess Calvert, Texas Dental Association; Sacha Jacobson)

Against — None

On — (*Registered, but did not testify*: Kelly Parker, Texas State Board of Dental Examiners)

DIGEST: HB 2007 would require the Texas State Board of Dental Examiners to adopt rules for issuing a limited volunteer license for military dentists and dental hygienists who were licensed and in good standing in another state, authorized to treat military personnel or veterans, and met other board requirements. The license would allow volunteer dentists and hygienists to work without compensation at a clinic that primarily treated indigent patients. License holders would be subject to all dental board rules and requirements, including those regarding disciplinary actions.

The bill would prohibit the board from issuing a military limited volunteer license to an applicant who:

- held a license that was under active investigation or had been subject to a disciplinary order or denial by another jurisdiction;
- held a license to prescribe or handle a controlled substance that was under investigation or subject to a disciplinary order or denial by another jurisdiction; or

- had been convicted of, was on deferred adjudication community supervision or deferred disposition for, or was under investigation for, a felony or misdemeanor involving moral turpitude.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2007 would help communities use an existing resource to provide needed dental care to indigent and uninsured Texans. Some parts of the state have significant shortages of qualified dental care providers, and volunteers can play an important role in treating those who have no other access to dental care. The bill would allow military dental professionals who were stationed in Texas but licensed in another state to obtain a limited volunteer license to help treat underserved civilian populations in Texas.

HB 2007 would mirror provisions in current law that allow military medical doctors to provide volunteer charitable services under Occupations Code, sec. 155.103. As with the law for military doctors, dental professionals would be subject to all rules of the Texas State Board of Dental Examiners, including those involving disciplinary actions.

The increased availability of dental care volunteers would allow more of the uninsured population to receive care in clinics, rather than in emergency rooms. Reducing indigent individuals' reliance on emergency rooms would be cost-effective for the state and for hospital systems.

The bill also would foster increased military engagement with surrounding communities. Allowing military dentists and hygienists to serve members of their communities in need could help build positive relations between these groups.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Designating certain river, stream segments of unique ecological value

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

WITNESSES: For — (*Registered, but did not testify*: Sandie Haverlah, Caddo Lake Institute; Christopher Mullins, Sierra Club; Andrea Williams McCoy, Ward Timber, Ltd.; Anna Elman; Buddy Garcia)

Against — None

On — Temple McKinnon, Texas Water Development Board

BACKGROUND: Water Code, sec. 16.053(e) requires regional water plans to identify river and stream segments of unique ecological value to recommend to the Texas Water Development Board for protection. These recommendations may be included in the state water plan, which is submitted for review to the governor, lieutenant governor, speaker of the House, and appropriate legislative committees.

Sec. 16.051(f) allows the Legislature to designate a river or stream segment of unique ecological value, which would prevent a state agency or political subdivision from financing the construction of a reservoir in that segment.

DIGEST: CSHB 1862 would prohibit a state agency or political subdivision from financing the construction of a reservoir in specified segments of the following rivers or streams by designating them as being of unique ecological value:

- Alamito Creek;
- Black Cypress Bayou;
- Black Cypress Creek; and

- Terlingua Creek.

The bill would not affect the ability of a state agency or political subdivision to construct, operate, or maintain infrastructure related to water management, low water crossings, or recreational facilities in the designated segments.

CSHB 1862 also would not prohibit action related to a water management strategy identified in a 2016 regional water plan and would not alter existing property rights of affected landowners.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 1862 would implement the recommendations of regional water planners to protect ecologically valuable segments of certain rivers and streams in the state. The bill would identify portions of creeks and a bayou that are unique for various reasons, such as their ability to support biodiversity and biological habitats or their contribution to water quality, flood mitigation, and flow stabilization. Designating these segments as having unique ecological value would prevent the construction of reservoirs. Such construction could impound free flowing water, eliminate valuable habitats and associated benefits, and result in algae blooms.

For example, the bill would prevent any future construction of a reservoir on Black Cypress Creek, which is a significant tributary to Caddo Lake. The loss of water inflows from Black Cypress Creek would endanger the natural systems that support the lake's fish and wildlife and, by extension, the regional economy, which depends on hunting, fishing, and recreation.

Designating certain river or stream segments as being of unique ecological value also would help regional water planners by allowing them to avoid controversial reservoir projects and instead focus their resources on water supply projects that have broader consensus.

The bill would employ a limited designation that would not constrain reasonable development and activity in the identified river or stream

segments.

OPPONENTS SAY:

No apparent opposition.

NOTES:

CSHB 1862 differs from the bill as filed by not designating a segment of Pecan Bayou as being of unique ecological value.

A companion bill, SB 863 by Perry, was referred on February 27 to the Senate Committee on Agriculture, Water, and Rural Affairs.

SUBJECT: Creating a statewide electronic tracking system for evidence in sex crimes

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Torie Camp, Joyful Heart Foundation; Aja Gair, SAFE; Chris Kaiser, Texas Association Against Sexual Assault; Justin Wood, Travis County District Attorney's Office; Wendy Davis; Mia Goldstein; (*Registered, but did not testify*: Joey Gidseg, Shane Johnson, Chas Moore, and Alexandra Peek, Austin Justice Coalition (AJC); Frank Dixon, Austin Police Department; Nakia Winfield, NASW-TX; Eric Kunish, National Alliance on Mental Illness Austin affiliate; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Julie Wheeler, Travis County Commissioners Court; James Thurston, United Ways of Texas; and 13 individuals)

Against — (*Registered, but did not testify*: CJ Grisham, Open Carry Texas)

On — Peter Stout, Houston Forensic Science Center; Laurie Charles, Texas A&M Health Science Center; (*Registered, but did not testify*: Skylor Hearn, Department of Public Safety)

BACKGROUND: Code of Criminal Procedure, art. 56.02 establishes the rights of crime victims, and art. 56.021 establishes additional rights for victims of sexual assault or abuse. Art. 56.021 gives victims the right to the disclosure of information about evidence collected during an investigation of the offense, unless the disclosure would interfere with the crime's investigation or prosecution. Victims also have the right to information about the status of analysis of the evidence. They can ask to be notified when a request to analyze evidence is submitted to a crime lab, when a request is submitted to compare biological evidence with DNA profiles in state or federal DNA databases, and of the results of the comparison, if

knowing the results would not compromise the case's investigation or prosecution.

DIGEST:

CSHB 281 would require the Texas Department of Public Safety (DPS) to develop and implement a statewide electronic tracking system for evidence collected in cases involving sexual assault or other sex offenses. The tracking system would include evidence from kits used to collect evidence from a sexual assault or other sex offense and other biological evidence of a sexual assault or other sex offense.

The bill would establish requirements for the tracking system, which would have to track the status and location of each item of evidence through various stages of the criminal justice process, allow entities involved in handling the evidence to update and track the status and location of evidence, and allow survivors anonymously to track or receive updates on the status of evidence.

DPS would require participation in the tracking system by any entity that collected evidence of sexual assaults or other sex offenses or that investigated or prosecuted such offenses.

Records entered into the tracking system would be confidential and not subject to disclosure under the state's public information laws. Records of the evidence being tracked could be accessed only by the survivor from whom the evidence was collected or an employee of an entity collecting the evidence or investigating or prosecuting the case.

Employees of DPS or an entity collecting the evidence or investigating or prosecuting the case could not disclose information to a parent of legal guardian of a survivor that would help in accessing the evidence records if the employee knew or had reason to believe that the parent or guardian was a suspect or suspected accomplice in the offense.

CSHB 281 would take effect September 1, 2017. DPS would have to require all entities collecting the evidence of sexual assaults or other sex offenses or investigating or prosecuting these offenses to participate in the tracking system by September 1, 2019.

SUPPORTERS SAY:

CSHB 281 is necessary to ensure that survivors of sexual assault and other sexual offenses are kept informed about the progress in their cases. While sexual assault survivors currently have a right to information about the status of the analysis of evidence at certain junctures in their cases, the information is limited, and the process has proved onerous and at times inadequate due to the limited staff in crime labs and law enforcement entities.

Evidence in sex crimes moves through several entities during the investigation and prosecution of a case. Current law requires only that sexual assault survivors be notified at limited times, including when a request to analyze evidence is submitted to a crime lab, when a request is filed to compare evidence in a case to evidence in state and federal databases, and when the results of such a comparison are available. Survivors can remain uninformed about the status of evidence at numerous other points in their cases, which can leave them anxious, fearful, and traumatized.

The bill would improve this situation by establishing a statewide, integrated electronic tracking system for evidence in sex crimes. Survivors could receive more information than they currently do by tracking the location and status of evidence throughout the entire criminal justice process, including information from health care facilities, law enforcement agencies, crime labs, and prosecutors' offices. Survivors could find out when an entity received evidence, when analysis was pending, when it was complete, and when it was stored or destroyed. Giving survivors this additional information about their cases would increase trust and transparency in the criminal justice system.

The bill would not compromise investigations or survivors' privacy because the tracking system would be confidential and limited in terms of who could use it. The system could be accessed only by survivors and employees of an entity handling the evidence, and information in the system would involve only the location and status of evidence, not results. Survivors could choose to opt in to the system, giving them a sense of control over their cases. The bill also would protect survivors whose parent or guardian might be a suspect in a case.

The Department of Public Safety (DPS) has experience with crime databases, evidence tracking, and handling sexual assault kits, making it the best entity to establish the tracking system. DPS would develop the system and roll it out to other entities so that it would not burden local law enforcement, labs, or others. The tracking system could be similar to the way some packages are tracked and could use radio-frequency identification chips or similar technology. It also could be modeled on the way crime evidence is often tracked currently using barcodes. The system could be web based and easily accessed by local entities so as not to impose a significant demand on their resources.

Given the backlog of sexual assault kits that need testing and the traumatic nature of sexual assault, establishing a tracking system focused on evidence in sexual assault cases would be another important step in the state's efforts to improve this process.

OPPONENTS SAY:

An entity other than DPS might be better suited to establish and house the evidence tracking system. For example, the attorney general's office has a crime victim services division that administers the crime victims' compensation program and other victims' program.

Participating in the statewide electronic database could stress the resources of some entities, especially small or rural law enforcement agencies. Entities may need computers, software, bar code readers or similar technology, as well as staff time to implement the system.

OTHER OPPONENTS SAY:

CSHB 281 could lead to calls from victims of other crimes to have a similar evidence tracking system, which could strain state and local resources.

NOTES:

CSHB 281 would cost the state $1.3 million in general revenue in fiscal 2018 and $238,185 each year after, according to the Legislative Budget Board's fiscal note. The bill could result in possible, if undetermined, fiscal impacts on local law enforcement and would obligate local entities involved in these cases to participate in the tracking system.

CSHB 281 made several changes to the filed version of the bill, including expanding it to include biological evidence in addition to evidence from collection kits and prohibiting employees of DPS and other entities from disclosing certain information to a parent or guardian whom the employee knew or had reason to believe was a suspect in the case.

SUBJECT: Changing the rollback tax rate calculation for certain school districts

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — D. Bonnen, Bohac, Darby, E. Johnson, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

1 absent — Y. Davis

WITNESSES: For — Missy Bender, Plano ISD; Sandy Hughey, Texas Association of School Boards; Thomas Canby, Texas Association of School Business Officials; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Julie Cowan, Austin ISD Board of Trustees; Michelle Smith, Fast Growth School Coalition; Ellen Williams, Houston Independent School District; Seth Rau, San Antonio ISD; Mike Motheral, Small Rural School Finance Coalition; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Thomas Canby and Nicole Conley, Texas Association of School Business Officials (TASBO); Colby Nichols, Texas Rural Education Association; Christy Rome, Texas School Coalition; Dale Craymer, Texas Taxpayers and Research Association; Dwight Harris, Texas AFT; Drew Scheberle, the Greater Austin Chamber of Commerce; Joseph Green, Travis County Commissioners Court)

Against — None

On — (*Registered, but did not testify*: Sacha Jacobson)

BACKGROUND: Following a 2005 school finance ruling from the Texas Supreme Court, the 79th Legislature, 3rd Called Session, in 2006 enacted HB 1 by Chisum, which required districts to lower their maintenance and operations (M&O) tax rates by one-third. For a district taxing at the then maximum $1.50 per $100 property valuation, its compressed tax rate dropped to $1.00 in the 2007 tax year.

HB 1 allowed districts to raise their M&O tax rates above the compressed rate by 4 cents per $100 valuation. Voter approval is required for a district to adopt a higher tax rate, up to the maximum allowable tax rate of $1.17 for most districts.

The tax rate that a school district may not exceed without holding an election is known as the "rollback" tax rate. Tax Code, sec. 26.08(n) provides two methods of calculating the rollback tax rate of a school district whose M&O tax rate for the 2005 tax year was $1.50 or less per $100 of taxable value.

DIGEST:

HB 486 would add a new method of calculating the rollback tax rate of school districts whose maintenance and operations (M&O) tax rate for the 2005 tax year was $1.50 or less per $100 of taxable value and whose adopted tax rate was approved at an election in the 2006 tax year or subsequently.

The bill would calculate the rollback tax rate for those districts as the higher of the amount under current law or the sum of the highest M&O tax rate adopted by the district's voters in the 2007 tax year or since, plus the district's current debt rate.

The new calculation would apply only to a district that had adopted a tax rate equal to or higher than the rollback tax rate for any tax year in the preceding 10 tax years.

HB 486 would require the comptroller of public accounts to report to the Legislature by December 1, 2019, the number of districts in tax year 2017 and tax year 2018 that lowered their tax rates and then raised them in the next tax year.

The change in calculation made by the bill would apply to the property tax rate of a school district beginning with the 2017 tax year, unless the district already had adopted its tax rate before the bill took effect. In that case, the change would apply beginning with the 2018 tax year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2017.

SUPPORTERS SAY:

HB 486 would allow certain school boards to lower their maintenance and operations (M&O) tax rates if warranted by financial conditions and later to return to the previous maximum tax rate set by voters. Under current law, a district that reduces its tax rate and subsequently decides to raise it back to the level previously approved by voters must hold another tax ratification election (TRE). Concerns about the cost and uncertainty of a new TRE prevent some districts from lowering their tax rates during a year or years when they may have surplus revenue.

The tax rate flexibility provided by the bill would allow districts to provide property tax relief without risking the loss of voter authority to tax at a higher rate if needed during a subsequent year. For instance, a district that lowered its tax rate one year might want to return to the higher tax rate the next year due to costs incurred opening a new campus or to cover another expense. The ability to adjust tax rates up and down as financial conditions warrant could help school boards respond to fluctuations in property valuations and state appropriations.

In addition to the costs and staff time involved in holding a TRE, voters may be confused when they are asked to ratify a tax increase that was previously approved. The bill would retain tax rate transparency because a school board could not raise taxes above the level previously supported by voters.

Voters concerned about the accountability for school board tax rate decisions could hold school trustees accountable during regular school board elections. Objections that property-wealthy districts could use the flexibility to reduce recapture money they owe under the state's wealth-equalization laws are outweighed by the value of property tax relief HB 486 would provide.

OPPONENTS SAY:

By allowing a school board that had lowered rates to raise them later without holding a new TRE, HB 486 could lead to higher tax rates. At a time when school property taxes are increasing in much of Texas, it is important for school boards to remain accountable for their tax rate decisions.

Some property-wealthy districts could use the tax rate flexibility provided by the bill to influence the amount of recapture money they paid to the state. This could result in less overall revenue for school funding.

NOTES:

According to the Legislative Budget Board's (LBB's) fiscal note, the financial impact of HB 486 cannot be estimated because it is unknown how many school boards would lower their tax rates due to the additional flexibility. According to the LBB, the bill could result in higher school tax rates in some instances and a financial gain to affected districts.

A companion bill, SB 1267 by L. Taylor, was referred to the Senate Committee on Education on March 13. A duplicate House bill, HB 390 by Howard, was heard in a public hearing by the House Committee on Ways and Means on March 22 and left pending.

SUBJECT: Increasing the punishment for burglary and theft of controlled substances

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Vance Oglesbee and Miguel Rodriguez, Texas Pharmacy Business Council; (*Registered, but did not testify*: David Gonzales, Alliance of Independent Pharmacies of Texas; Richard Beck, AmerisourceBergen Services Corp; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Clay Taylor, Dept. of Public Safety Officers Association; David Sinclair, Game Warden Peace Officers Association; Dennis Wiesner, H-E-B; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Bill Elkin, Houston Police Retired Officers Association; Karen Reagan, National Association of Chain Drug Stores; Annie Spilman, National Federation of Independent Business/Texas; John Heal, Pharmacy Buying Association d/b/a Texas TrueCare Pharmacies; Jimmy Rodriguez, San Antonio Police Officers Association; Buddy Mills, Ricky Scaman, Micah Harmon, and AJ Louderback, Sheriffs' Association of Texas; Nora Del Bosque, Texas Dental Association; Brad Shields, Texas Federation of Drug Stores; Scot Kibbe, Texas Health Care Association; Jennifer Banda, Texas Hospital Association; Duane Galligher, Texas Independent Pharmacies Association; Dan Finch, Texas Medical Association; Monty Wynn, Texas Municipal League; Justin Hudman, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council; Royce Poinsett, Texas Veterinary Medical Association)

Against — Derek Cohen, Texas Public Policy Foundation; (*Registered, but did not testify*: Kathy Mitchell, Texas Criminal Justice Coalition)

BACKGROUND: Penal Code, sec. 30.02 defines and sets penalties for burglary. Sec. 31.03 defines and sets penalties for theft.

DIGEST:

HB 1178 would enhance the penalty for burglary of a building that generally stores controlled substances, including a pharmacy, clinic, hospital, or nursing facility, from a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the person entered or remained concealed with intent to commit theft of a controlled substance. The bill also would make the theft of a controlled substance a third-degree felony, regardless of the value of the amount stolen.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 1178 would give prosecutors a more powerful tool to stop professional drug thieves who are undeterred by current criminal penalties. The opioid abuse epidemic across the country has led to a dramatic increase in attempts to steal drugs, particularly from pharmacies and other premises that typically store controlled substances. This has led to an escalating competition between business owners, who must spend considerable sums to protect their properties, and organized criminals, who continue devising new ways to steal. This is costing businesses and the companies that insure them a great deal of money, and those costs are passed on to consumers who have a legitimate need for these and other medications provided by these businesses. Enhancing the penalty for burglary with intent to steal a controlled substance from a pharmacy, hospital, or similar facility would present a more effective deterrent against drug theft.

Under current law, the severity of punishment attached to theft is based on the value of the stolen goods. By enhancing the penalty for theft of any controlled substance regardless of its value, this bill could deter drug thieves in a way that the graduated approach in current law does not.

OPPONENTS SAY:

While opioid abuse is a serious problem, HB 1178 inappropriately would punish the theft of even a trivial amount of a controlled substance as a third-degree felony. At a time when policy makers are recognizing the onerous financial and moral burdens created by overly harsh criminal penalties, this bill could move Texas in the wrong direction.

NOTES:

A companion bill, SB 536 by Hinojosa, was referred to the Senate Criminal Justice Committee on February 8.

The Legislative Budget Board's fiscal note suggests an indeterminate increase in demand for correctional resources due to longer sentences that might result from HB 1178.

SUBJECT: Extending and changing depository contracts between schools and banks

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Meredyth Fowler, Independent Bankers Association of Texas; Mike Motheral, Small Rural School Finance Coalition; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Colby Nichols, Texas Rural Education Association; Dee Carney, Texas School Alliance; David Anthony)

Against — None

On — (*Registered, but did not testify*: Leonardo Lopez, Texas Education Agency)

BACKGROUND: Education Code, ch. 45, subch. G requires each school district to contract with a depository bank into which the Texas Education Agency can deposit funds for the district. When seeking to contract with a depository bank, a district is required to use a competitive bidding process or issue a request for proposals.

The depository contract agreement between district and bank remains in force for two years, except that the district and bank may agree to extend a contract for up to two additional two-year terms if there are no changes to the contract other than the extension. Such an extension is not subject to the requirement for a competitive bidding process or request for proposals.

According to TEA procedures, the requirement for a district to use the competitive bidding process or request for proposals applies when the

additional two terms of extension have expired, there is a change to the contract, or the school district wishes to contract with another bank.

DIGEST:

HB 878 would allow a school district to extend a depository contract with a bank for up to three two-year terms, rather than two. Both parties could agree to modify the depository contract when it was extended without being subject to the requirement for a competitive bidding process or request for proposals.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 878 would give school districts and banks more flexibility to extend a depository contract while also making mutually agreeable changes without requiring them to start a new process of competitive bidding or requesting proposals. This bill would allow school districts and banks to make contract changes that better reflected market conditions without entering into these costly and time-consuming processes. A district still could begin a new bidding process after any two-year term if it wished and could not extend a contract for more than eight years total.

In many rural areas, there are a limited number of banks, and a bidding process may result in only one candidate. Going through a new bidding or request for proposal process for any change is unnecessary if the end result is selecting the same bank. Increasing the number of additional contract extensions and allowing for changes to be made without beginning a new competitive bidding or request for proposal process would save school districts time and money.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, SB 754 by Perry, was referred to the Senate Education Committee on February 22.

SUBJECT: Requiring studies of aquifer storage and recovery projects

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

WITNESSES: For — Brian Sledge, Benbrook Water Authority, City of Bryan, Lone Star Groundwater Conservation District (GCD), Prairielands GCD, Upper Trinity GCD, Wells Branch Municipal Utility District; Chris Pepper, Texas Aggregates and Concrete Association; (*Registered, but did not testify*: Buddy Garcia, Aqua Texas; Kent Satterwhite, Canadian River Municipal Water Authority; Jay Barksdale, Greater Irving/Las Colinas Chamber of Commerce; Bill Lauderback, Lower Colorado River Authority; Mark Evans, North Harris County Regional Water Authority; C.E. Williams, Panhandle GCD; Jim Conkwright, Prairielands GCD; Stephanie Reyes, San Antonio Chamber of Commerce; Allen Beinke, San Antonio River Authority; Christopher Mullins, Sierra Club; Stephen Minick, Texas Association of Business; Chloe Lieberknecht, The Nature Conservancy; Charles Flatten; Sacha Jacobson)

Against — None

On — Robert Mace, Texas Water Development Board

BACKGROUND: Water Code, sec. 11.155 requires the Texas Water Development Board, as it considers necessary, to study, investigate, and survey aquifers in the state to determine the occurrence, quantity, quality, and availability of aquifers in which water may be stored and retrieved.

DIGEST: HB 2005 would require the Texas Water Development Board (TWDB) to work with the appropriate interested persons, including groundwater conservation districts, regional water planning groups, and potential sponsors, to conduct studies of aquifer storage and recovery (ASR) projects identified in the state water plan or by interested persons and

report the results.

The TWDB also would be required to conduct a statewide survey of the most favorable areas for ASR, prepare a report with an overview of the survey, and submit the report to the governor, lieutenant governor, and speaker of the House by December 15, 2018.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2005 would encourage the development of aquifer storage and recovery (ASR) projects in the state by requiring the Texas Water Development Board (TWDB) to study potential aquifers. Currently, declining groundwater levels and intermittent river flows are curtailing water storage efforts. The state water plan, which is designed to meet water needs during times of extreme drought, projects a need for almost 9 million acre-feet of water by 2070, requiring new techniques for water storage methods such as ASR.

ASR projects have been used successfully in other states for years to store water underground, preventing surface evaporation and mitigating the sinking of land and flooding. These projects also keep surface lands from being taken out of operation by above-ground storage, freeing the property for other uses.

HB 2005 would help provide more information to local governments and all interested parties through studies of which geological formations along river basins are conducive to ASR. The bill also would encourage small communities with few resources to invest in potential ASR projects studied by the TWDB.

OPPONENTS SAY:

No apparent opposition.

NOTES:

HB 2005 would cost the state $847,895 in general revenue related funds in fiscal 2018 and $301,445 each year after, according to the Legislative Budget Board's fiscal note.

SUBJECT: Establishing a pilot program to treat veterans with PTSD or TBI

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Collier, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

WITNESSES: For — Rainey Owen; (*Registered, but did not testify*: Rita Owen)

Against — None

On — (*Registered, but did not testify*: Trina Ita, Health and Human Services Commission)

DIGEST:

CSHB 271 would require the Health and Human Services Commission (HHSC) through existing resources to create and operate the Veterans Recovery Pilot Program. The program would provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible military veterans who have post-traumatic stress disorder (PTSD) or a traumatic brain injury (TBI).

Veterans recovery program and account. The bill would establish the general revenue dedicated veterans recovery account, which would consist of gifts, grants, and other donations, in addition to interest earned on the account. Money in the account could be used to pay for program administration costs, diagnostic testing and treatment of veterans with PTSD or TBI, and any necessary travel and living expenses for a veteran receiving treatment in the pilot program.

The HHSC executive commissioner would seek reimbursements for payments under the program from the federal TRICARE health care program, appropriate federal agencies, and other responsible third-party payors.

The HHSC executive commissioner would establish rules to implement

the program, including adopting standards for veteran and facility eligibility to participate in the program and to ensure patient confidentiality. The standards would require eligible facilities to comply with applicable fire codes, oversight requirements, and treatment protocols, and participating veterans would have to reside in Texas. The executive commissioner also could form an advisory board to help develop the pilot program.

The pilot program would expire September 1, 2023, and any remaining balance in the veterans recovery account would be transferred to the general revenue fund. If there were insufficient funds in the veterans recovery account to cover administrative expenses, HHSC could not operate the program.

Hyperbaric oxygen treatment and reimbursement. CSHB 271 would require the HHSC executive commissioner to adopt standards by rule for the provision of hyperbaric oxygen treatment to veterans who had been diagnosed with PTSD or a TBI, had been prescribed hyperbaric oxygen treatment, and agreed to the treatment under the pilot program. Before providing hyperbaric oxygen treatment to a veteran, the facility would develop and submit to HHSC a treatment plan that included certain information, including an estimate of treatment costs and any travel and living expenses for the veteran. HHSC could not approve the provision of hyperbaric oxygen treatment unless the facility complied with applicable HHSC rules and standards and the veteran was eligible for treatment under the program.

The bill would allow a facility to seek reimbursement for care provided to a veteran under the program. The facility could not charge the veteran for treatment, and the veteran would not be liable for any costs pertaining to treatment or other program expenses.

HHSC would approve each treatment plan that met specified requirements and standards, if sufficient funds were available, and HHSC would reserve funds from the account equal to estimated costs. The HHSC executive commissioner would reimburse the facility for expenses incurred, provided the facility submitted regular reports of the veteran's measured health improvements under the treatment plan. Neither the state nor the

veterans recovery account would be liable if expenses exceeded reserved funds.

CSHB 271 also would allow a facility to submit an updated treatment plan and request the reservation of additional funds. The bill would provide for the termination of funds reserved for treatment or other expenses after a specified period of time had passed during which the facility or veteran did not request reimbursement, subject to notification requirements.

Report. HHSC would have to report the effectiveness of the program and the number of veteran and facility participants to the governor, lieutenant governor, speaker of the house, and the applicable House and Senate standing committees by October 1 every even-numbered year.

Effective date. By January 1, 2018, the HHSC executive commissioner would adopt rules to implement the bill's provisions. The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 271 would benefit Texas veterans by creating a program to treat post-traumatic stress disorder (PTSD) and traumatic brain injuries (TBIs). Some reports estimate as many as 180,000 veterans in Texas may suffer from these conditions. Symptoms of PTSD and TBI can include confusion, headache, fatigue, insomnia, memory loss, mood changes, depression, and anger management issues. Suicide, unemployment, substance abuse, homelessness, and incarceration are among the negative consequences that often result from the conditions these injuries can cause. However, effective treatments for such conditions are elusive and mainly consist of counseling, drug therapy, and the passage of time.

CSHB 271 would provide a safe alternative to traditional treatments provided by the U.S. Department of Veterans Affairs (VA). Treatments approved and provided by the VA and military often include pharmaceutical drugs, which only mask the symptoms and do not cure the underlying brain injury. When a person's brain sustains severe trauma, it needs significantly more oxygen to heal. Hyperbaric oxygen treatment stimulates the body's healing process and allows most patients to experience rapid recovery of cognitive and neurological functioning without surgery or drugs.

OPPONENTS SAY:

CSHB 271 could create more bureaucracy by establishing a new state program. It is not the proper role of the state to create, administer, and fund veterans' programs. Rather than creating state-based programs to address veterans' medical needs, lawmakers should hold the federal government accountable to carry out the responsibilities of the U.S. Department of Veterans Affairs.

NOTES:

A companion bill, SB 1075 by Buckingham, was referred to the Senate Committee on Health and Human Services on March 7.

CSHB 271 differs from the bill as filed by requiring Health and Human Services Commission, rather than the Department of State Health Services, to administer the Veterans Recovery Pilot Program.