

14-19

May 17, 2019

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BUDGET AGREEMENT

The legislature is one step closer to the end of the 2019 legislative session. This week, the Governor, House, and Senate came to an agreement on the FY2020 state budget. The budget deal includes pay raises for teachers and state employees as well as \$200 million added to the state's savings account. The budget also includes funds for establishing the Legislative Office of Fiscal Transparency, health care access, county roads and bridges, and more. It is anticipated that the House will pass the budget today, the Senate will vote on it Monday, May 20, and the legislature will likely adjourn Sine Die on Thursday, May 23.

SB 1030 SENT TO CONFERENCE COMMITTEE

House Amendments to [SB 1030](#) were rejected this week in the Senate. The Senate would like to remove the taxation language amended by the House, believing the amended language reduces the state sales tax of medical marijuana by 3.5 percent. Both the Senate and House are agreeable to the remaining language in SB 1030 and acknowledge this bill is important for municipalities regarding medical marijuana. We will continue to work with Senate and House leadership to make sure this priority bill moves quickly through the remaining days of this legislative session.

HB 1032 REMAINS PROBLEMATIC

The conference committee report (C) for [HB 1032](#) was signed out of the House Business and Commerce conference committee Thursday afternoon. Thank you to everyone who worked tirelessly with their House members on this issue. It is now in a [Senate conference committee](#) and open for signatures. This bill is detrimental to development in our cities. It is preemptive, hastily written, and opposed by OML and the Architects Association. The Senate conferees include: Sen. Brooks (R - OKC), Sen. Newhouse (R - Broken Arrow), Sen. Leewright (R - Bristow), Sen. McCortney (R - Ada), Sen. Stanislawski (R - Tulsa), Sen. Young (R - OKC). If you live in their district, please contact them and ask them to reject this bill and not sign it out of committee.

Bills on the Move

A Snapshot of Bills Impacting Cities and Towns

Sales Tax Exemptions/Medicare Reimbursement: [HB 1262](#) by Rep. Kyle Hilbert (R-Depew) and Sen. James Leewright (R-Bristow) expands the current sales tax exemption in 68 O.S. Section 1357.6 for drugs, eyeglasses, hearing aids, prosthetic devices and the like. Added is sales of medical equipment including prosthetic devices, durable medical equipment and mobility-enhancing equipment as defined in Section 1357.6. The bill contains details.

The Conference Committee Report was rejected, and further conference has been requested.

Water/Groundwater Irrigation District: [SB 998](#) by Sen. Casey Murdock (R-Felt) and Rep. Kenton Patzkowsky (R-Balko) impacts the prohibition on any groundwater user committing waste as defined in 82 O.S. Section 1020.15 by removing the word fresh groundwater. New law provides a regulatory framework for taking and using marginal water. When in accordance with Groundwater Law and OWRB rules it is considered a beneficial use and not waste. Details include rules for well construction standards, spacing and water use reporting. Use of marginal water is in addition to any domestic use or any other use authorized via permit. The bill contains details.

The bill is in the Conference Committee on Energy & Natural Resources.

Hemp/Industrial Hemp Program: [HB 2628](#) by Rep. Jon Echols (R-OKC) and Sen. Lonnie Paxton (R-Tuttle) authorizes the State Board of Agriculture to submit documents to the U.S. Department of Agriculture for approval of the Oklahoma Industrial Hemp Program.

The Conference Committee Report was adopted in the House by a unanimous vote. It has since been submitted to the Senate.

Optometry/Regulation: [SB 100](#) by Kim David (R-Porter) and Rep. Carl Newton (R-Cherokee) amends various sections of Title 59 impacting the regulation of licensed optometrists including allowing within or adjacent to a retail store. The bill also contains new law and it repeals 59 O.S. Section 594 and 596. The bill contains extensive details.

The bill was sent to the Governor on Thursday.

Alcoholic Beverage/License: [SB 804](#) by Sen. Stephanie Bice (R-OKC) and Rep. Marcus McEntire (R-Duncan) amends 37A O.S. Section 6-102 by providing that a mixed

beverage or beer and wine licensee shall not be deemed to have violated paragraph 5 of subsection A if it allowed a patron to leave the premise with an open container of beer or wine. This applies on the day of a scheduled home football game of institutions within the Oklahoma State System of Higher Education between 8 a.m. to midnight, if the licensee is participating by invitation in a municipally sanctioned art, music or sporting event within the city limits with the municipality providing written notice of the event and a list of invited licensees to the ABLE Commission or the patron remains on the connected, physical property of the licensee or in a public area adjacent with prior municipal approval with notice provided to the ABLE Commission. The bill contains details.

The bill was sent to the Governor on Wednesday.

DEQ Board/2020: [SB 1027](#) by Sen. Nathan Dahm (R-Broken Arrow) and Rep. Tom Gann (R-Inola) amends current law to provide four DEQ Boards and Councils shall be created until July 1, 2020.

The bill was sent to the Governor on Thursday.

Firearms/Self-Defense Act: [HB 1214](#) by Rep. Carl Newton (R-Cherokee) and Sen. Stephanie Bice (R-OKC) amends the Oklahoma Self-Defense Act regarding residency requirements for application for a handgun license.

The bill was sent to the Governor on Thursday.

Bills Signed by the Governor

Law Enforcement/Sexual Assault Kits: [SB 967](#) by Sen. Kay Floyd (D-OC) and Rep. Jon Echols (R-OKC) is new law authorizing the OSBI to implement a statewide electronic tracking system for evidence collection kits used to collect and preserve evidence of a sexual assault or other sex offense. Any law enforcement agency, medical provider or forensic laboratory that has a previously untested collection kit used for a forensic medical examination shall comply with established protocols relating to all untested kits. Consistent with protecting victim confidentiality for unreported sexual assaults, a law enforcement agency having custody of a kit shall take reasonable measures to provide appropriate tracking information to the affected victim. The OSBI, no later than January 1, 2020, shall require all entities described in the bill to participate in a statewide tracking system. The bill contains details.

The bill took effect on April 18, 2019.

CLEET/Training: [SB 971](#) by Sen. Kay Floyd (D-OKC) and Rep. Jon Echols (R-OKC) requires CLEET to establish appropriate training resources including policies and protocols for responding to sexual assault calls, guidelines for sexual assault kits and continuing education on trauma-informed sexual assault response and intervention. All CLEET certified officers are required to complete such training on a regular basis as determined by CLEET. Training resources are also required for basic training courses. The bill contains details.

The bill will take effect on November 1, 2019.

Law Enforcement/Sexual Assault Kits: [SB 975](#) by Sen. Kay Floyd (D-OKC) and Rep. Jon Echols (R-OKC) is new law requiring a variety of activities regarding sexual assault evidence kits, including law enforcement requirements. This includes submitting evidence to a lab as well as maintaining and storing untested kits. OSBI is given duties including adopting and disseminating guidelines and procedures for the collection, submission and testing of DNA evidence. The bill contains details.

The bill took effect on May 14, 2019.

Taxation/Remote Sellers: [SB 513](#) by Sen. Stephanie Bice (R-OKC) and Rep. Chad Caldwell (R-Enid) amends sales and use tax remittance by remote sellers. Among the changes in current law is deletion of remote sellers leaving a marketplace facilitator or a referrer for those in 68 O.S. Section 1392(A)-(F) defined as sales worth at least \$10,000. In new Section G, a remote seller is redefined as

aggregate sales or delivery to locations within the state worth at least \$100,000 during the preceding or current calendar year shall collect and remit the tax. Sales made by a remote seller via a marketplace forum or a referrer's platform where the tax is collected and remitted by the marketplace facilitator or referrer shall not be included in determining whether the remote seller has met the threshold amount. Remote seller is also generally removed from Sections 1393-1396. When mentioned, reference is made to the new Section 1392(G). The bill provides details.

The bill will take effect on November 1, 2019.

Alcoholic Beverages/Felony Conviction: [HB 1030](#) by Rep. Ty Burns (R-Morrison) and Sen. Chuck Hall (R-Perry) provides that an employee license in 37A O.S. Section 2-148 may be issued and held by a person who has been convicted of a felony if the conviction was not for a violent offense as provided in the bill. Removed from current law is the additional requirement that the conviction was more than 5 years prior to the issuance of the license.

The bill will take effect on November 1, 2019.

Employment/Independent Contractors: [HB 1095](#) by Rep. Mike Osburn (R-Edmond) and Sen. Jason Smalley (R-Stroud) is new law creating the Empower Independent Contractors Act of 2019 by empowering the Oklahoma Employment Security Commission with exclusive authority to determine whether a person is an independent contractor or employee. The criteria for determination is the 20-factor test used by the IRS. The Commission is given rule-making authority.

The bill will take effect on January 1, 2020.

Law Enforcement/Telecommunication System: [HB 2037](#) by Rep. Dean Davis (R-Broken Arrow) and Sen. Dave Rader (R-Tulsa) amends the Oklahoma Law Enforcement Telecommunication System (OLETS) by authorizing a county sheriff who offers hosting services of end users that allows connection to OLETS to charge a fee. The fee is for the itemized actual costs of specific items including providing personnel, reoccurring user fees, hardware and accessories, installation, maintenance and the like. The terms and itemized costs shall be provided in an inter-local agreement. There are filing requirements and fees. The bill contains details.

The bill will take effect on November 1, 2019.

Pension/Firefighters: [HB 2269](#) by Rep. Josh West (R-Grove) and Sen. Paul Rosino (R-OKC) amends the Firefighter Pension System regarding the calculation of straight life annuity in 11 O.S. Section 49-106.2 by adding language on interest rates. In addition, all pension benefits including payments from the deferred option plan shall be paid from the general assets of the Fund. Also, changes are made to probate procedure following a member's death. The Police Pension System is amended regarding the Deferred Option Plan's payment of a lump sum to beneficiaries specified in the bill. In addition, the State Police Pension Board shall be granted access in 11 O.S. Section 50-112 to a list of actively working police officers within municipalities and agencies under the purview provided by CLEET. Upon the death of a retired member or a beneficiary of the Police Pension System, the benefit payment for the month the retired or beneficiary died, if not previously paid, shall be made to the beneficiary of the member, which shall include a successor in interest in accordance with requirements in the bill.

The bill took effect on May 13, 2019.

Law Enforcement/Cyclists: [HB 2453](#) by Rep. Jason Dunnington (D-OKC) and Sen. John Montgomery (R-Lawton) amends 47 O.S. Section 11-1208 regarding motorists interacting with cyclists on the roadway. Regulation is put in place for changing lanes and overtaking the bicycle. There is a penalty provision including fines and criminal penalties. The bill provides details.

The bill will take effect on November 1, 2019.

Water/Mining Moratorium: [HB 2471](#) by Rep. Charles McCall (R-Atoka) and Sen. Greg McCortney (R-Ada) is new law creating a moratorium on the Department of Mines issuing a permit via 45 O.S. Section 724. The moratorium impacts any location overlying a sensitive sole source groundwater basin or subbasin, or in which groundwater emanating from any sensitive sole source groundwater basin or subbasin may collect within a pit, as defined in 45 O.S. Section 723. In addition, OWRB shall not issue any permit or other administrative authorization for the appropriation, diversion, withdrawal or removal of water from or for the dewatering, in part or in full, of a pit, as defined in 45 O.S. Section 723, of a subject mine. Final rules are required to provide for interagency consultation among the Department of Mines, OWRB and DEQ on all administrative matters. The bill contains details.

The bill will take effect on November 1, 2019.

Cannabidiol/Label: [SB 238](#) by Sen. Robert Standridge (R-Norman) and Rep. T.J. Marti (R-Tulsa) is new law requiring a label for any manufactured product containing cannabidiol. The bill contains an exception for any pharmaceutical product approved by FDA and authorizes retail sales without a license under conditions in the bill. The bill contains details.

The bill will take effect on November 1, 2019.

Firearms/Municipal Armed Security Guards: [SB 708](#) by Sen. Kim David (R-Porter) and Rep. Jon Echols (R-OKC) is new law authorizing municipalities via a majority vote of the governing body to designate personnel to attend armed security guard training program, or a reserve peace officer certification program, via CLEET. The bill contains details including immunity.

The bill will take effect on November 1, 2019.

Inspector Act/CIB: [SB 733](#) by Sen. Dave Rader (R-Tulsa) and Rep. Carol Bush (R-Tulsa) amends the Oklahoma Inspectors Act by deleting from the definition of "building and construction inspector" current law which requires "by the political subdivision having managerial and superintending control over building codes as the code official" for the purpose of enforcing "and having the authority to enforce" compliance with applicable building codes. In addition, deletions are made from the definition of "inactive building and construction inspector" by removing who "is currently not employed by a political subdivision" and the definition of "provisional license" by reducing the term from 2 years to 1 year, the definition of "report writer" by adding any person or agency "recognized" by a political subdivision having managerial control. Finally, "authorized provider" is amended. 59 O.S. Section 1036 regarding applicants for certification and license by removing being "employed by a political subdivision". In addition, the term of a "provisional license" is amended by reducing it from 2 years to 1 year. Language for renewal of a licensed building and construction inspector who is not employed at the time of renewal is removed from 59 O.S. Section 1038. Amendments are also made to 59 O.S. Sections 1046 in a variety of ways including licensing details by substituting authorized "provider" from current laws authorized "agency". The bill contains details.

The bill will take effect on November 1, 2019.

Law Enforcement/Intimidation: [SB 752](#) by Sen. James Leewright (R-Bristow) and Rep. Nicole Miller (R-Edmond) amends 21 O.S. Section 838 regarding a person who by use of force, threats or intimidation, prevents another from employing or compels employment, or to

induce another to alter his/her mode of carrying on business. The bill adds to interrupt or disrupt the carrying on of business. In addition, 21 O.S. Section 1172 is amended by adding text, sound or images. Also, added to the current definition of telecommunication and electronic communication is a communication including text, sound or images posted to a social media or other public media source. The bill contains details.

The bill will take effect on November 1, 2019.

Wildfire Prevention/County: [SB 870](#) by Sen. Casey Murdock (R-Felt) and Rep. Carl Newton (R-Cherokee) amends 2 O.S. Section 16-8 by authorizing, under the direction of forest rangers and written permission of the landowner, county officers and employees to cut firelines and carry out all customary activities for conducting prescribed burns to mitigate hazardous wildland fuels for the prevention of wildfires on private lands.

The bill will take effect on November 1, 2019.

Energy Independence Act/Commercial Property: [SB 1000](#) by Sen. James Leewright (R-Bristow) and Rep. Scott Fetgatter (R-Okmulgee) amends 19 O.S. Section 460.5 by exempting property zoned as residential from the Oklahoma Energy Independence Act. Counties are authorized to establish commercial Property Assessed Clean Energy (PACE) programs to facilitate financing between commercial property owners and private lenders. Additional changes are made regarding mortgages on property where a lien is recorded, loans and enforcement of a lien which runs with the property and has the same priority and status as a lien for unpaid ad valorem property taxes. The exclusive method of enforcing a lien for failure to repay any loan shall be by the local government in the same manner and with the same priority as the enforcement of a lien for unpaid ad valorem property taxes. The bill contains details including regulation of improvements.

The bill will take effect on November 1, 2019.

Public Accommodation/Service Animals: [HB 1309](#) by Rep. Marilyn Stark (R-Bethany) and Sen. Brenda Stanley (R-OKC) is new law creating 4 O.S. Section 801 regarding public accommodation of service animals by a place of public accommodation. These terms have the same meaning as defined in 28 C.F.R. Section 36.104. There are exceptions, policy and posting requirements. The bill contains details.

The bill will take effect on November 1, 2019.

Occupational Licenses/Regulation: [HB 1373](#) by Rep. Zack Taylor (R-Seminole) and Sen. Julie Daniels (R-Bartlesville) is new law impacting numerous licensing authorities. All state entities that are charged with oversight of occupational licenses shall explicitly list the specific criminal records that would disqualify an applicant from receiving a license or certification. These include only disqualifying criminal offenses that substantially relate to the duties and responsibilities of the licensed occupation and pose a reasonable threat to public safety. The bill includes licensure, notification duties and new definitions. The occupations are located in Title 59. The bill contains details.

The bill will take effect 90 days after Sine Die.

Water/Tri-State Commission: [HB 2142](#) by Rep. Chris Sneed (R-Fort Gibson) and Sen. Kimberly David (R-Porter) creates the Tri-State Commission on the McClellan-Kerr Arkansas River Navigation System (MKARNS). Kansas and Arkansas are anticipated to enact legislation as well. Members of the Commission are a specified number of legislators within the territory of MKARNS, a member of the Water Advisory Board of the Oklahoma Department of Transportation, Native American tribes, a statewide business organization, a statewide agricultural organization, and a public port along MKARNS. The duties of the Commission are varied.

The bill took effect on May 14, 2019.

Water/McClellan-Kerr Arkansas River Navigation System: [HB 2143](#) by Rep. Chris Sneed (R-Fort Gibson) and Sen. Kimberly David (R-Porter) creates for the Oklahoma Department of Transportation the McClellan-Kerr Arkansas River Navigation System (MKARNS) Infrastructure Revolving Fund to repair and construct assets which are part of the Navigation System.

The bill took effect on May 14, 2019.

Law Enforcement/Stationary Vehicle: [SB 89](#) by Sen. Brent Howard (R-Altus) and Rep. Charles Ortega (R-Altus) requires a driver of a motor vehicle to change lanes into a lane not adjacent to a stationary vehicle that is displaying flashing lights. The bill provides details.

The bill will take effect on November 1, 2019.

Law Enforcement/DNA Collection: [SB 184](#) by Sen. Wayne Shaw (R-Grove) and Rep. Carol Bush (R-Tulsa) amends 22 O.S. Section 210 requiring DNA collection and testing for persons over 18 arrested for a felony. Samples must be collected by trained medical personnel, law

enforcement, tribal police officers, or employees or medical contractors of these organizations as qualified via this statute. Provision is made for DNA identification - matching purposes, use of Rapid DNA technology by a jail, detention facility, booking facility of a federally recognized American Indian tribe in Oklahoma or other designated facility and confidentiality requirements. An additional exception is added to current law for non-analysis and destruction requirements if the DNA sample was provided as a condition of a plea agreement. The bill contains details.

The bill will take effect on November 1, 2019.

Transportation/Funding: [SB 400](#) by Sen. Lonnie Paxton (R-Tuttle) and Rep. Mark Lepak (R-Claremore) amends 11 O.S. Section 36-113 by authorizing municipalities of greater than 5,000 persons but less than 15,000 persons to pass a tax or fee in order to qualify for the board of county commissioners to construct, improve, repair or maintain any streets of a municipality. This authorization is for counties of a population of less than 150,000 persons.

The bill will take effect on November 1, 2019.

Open Meetings/Public Notice: [SB 740](#) by Sen. Adam Pugh (R-Edmond) and Rep. Tammy West (R-Bethany) amends the public notice portion of the Open Meeting Act. 25 O.S. Section 311 is amended to correct a statutory reference by inserting 74 O.S. Section 3106.2. This Section requires public bodies to make available on their website a schedule and information about the regularly scheduled meetings of the public bodies or their governing bodies.

The bill will take effect on November 1, 2019.

Marijuana/Discrimination: [SB 811](#) by Sen. Jason Smalley (R-Stroud) and Rep. Mark McBride (R-Moore) creates a new section of law not to be codified in the statutes. It provides that "the provisions of this act shall be implemented in accordance with and subject to the Oklahoma Medical Marijuana and Patient Protection Act". 63 O.S. Section 425 is amended to provide that no person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder "including but not limited to" a concealed carry permit. The bill also excludes biomedical and clinical research subject to federal regulations from oversight by the State Department of Health. The bill contains details.

The bill took effect on May 14, 2019.

Expungement/Leave of Court: [SB 815](#) by Sen. Kimberly David (R-Porter) and Rep. Chris Kannady (R-OKC)

amends 22 O.S. Section 18 regarding those authorized to file a motion for expungement. The bill contains details.

The bill will take effect on November 1, 2019.

Health Insurance/Credit Card Payment: [HB 1157](#) by Rep. Rande Worthen (R-Lawton) and Sen. John Montgomery (R-Lawton) is new law prohibiting any health insurance plan from containing restrictions on methods of payment from the health insurer to its vendor or health maintenance organization to the health care provider in which the only acceptable payment method is a credit card payment. The bill contains details.

The bill will take effect on November 1, 2019.

Marijuana/Physician: [HB 2613](#) by Rep. Scott Fetgatter (R-Okmulgee) and Sen. Lonnie Paxton (R-Tuttle) amends the definition of physician to include licensing by the Board of Podiatric Medical Examiners. In new law various medical licensure boards are granted authority to issue guidance and discipline regarding physicians impacted by the bill. The bill contains details.

The bill took effect on May 15, 2019.

Law Enforcement/Emergency Vehicle: [HB 2629](#) by Rep. Jon Echols (R-OKC) and Sen. Julia Kirt (D-OKC) impacts drivers approaching a stationary emergency vehicle, a DOT maintenance vehicle, a Turnpike Authority maintenance vehicle or a wrecker that is displaying a flashing amber light or a combination red or blue light or any combination of amber, red or blue lights. Required actions are changing lanes, reducing speed and the like. In addition, 47 O.S. Section 954 is amended to authorize peace officers of political subdivisions to detain and arrest any person offering towing services to the public for a charge. Any person convicted of offering towing services to the public for a charge without a license shall be guilty of a misdemeanor and punished with a fine of \$1,000. Law enforcement may impound the tow truck.

The bill will take effect on November 1, 2019.

Hospitals/Trauma Systems: [SB 156](#) by Sen. Frank Simpson (R-Ardmore) and Rep. Sean Roberts (R-Hominy) amends the Oklahoma Trauma Systems Improvement and Development Act. It adds a requirement for data collection for responses to time-sensitive medical conditions including stroke and ST-Elevated Myocardial Infraction. In addition, there are requirements for meetings of regional trauma advisory boards including confidential standards and an exception from the Open Records Act. The bill contains details.

The bill will take effect on November 1, 2019.

Hospitals/STI: [SB 220](#) by Sen. Stephanie Bice (R-OKC) and Rep. Jadine Nollan (R-Sand Springs) contains reporting duties for hospitals and correctional facilities in which there is a case of a sexually transmitted infection. Notification is to the city-county health department, if in Oklahoma or Tulsa County, who shall notify the State Commissioner of Health or for those not in Oklahoma or Tulsa County, notification is directly to the State Commissioner of Health.

The bill will take effect on November 1, 2019.

Law Enforcement/Driving Privileges: [SB 712](#) by Sen. Kimberly David (R-Porter) and Rep. Chris Kannady (R-OKC) amends various sections of Title 47 impacting persons convicted of a number of offenses. Changes include refusal to take a test, license revocation, Impaired Driver Accountability Program (IDAP), ignition interlock device, various fees, actual physical control and appeal process. Law enforcement agencies may designate whether blood or breath is to be tested for alcohol, and blood, saliva or urine for any other intoxicating substance. The bill contains procedures in the event the law enforcement agency does make this designation. Notification by law enforcement is also included. Provision is also made for testing a person who is incapable of submitting to and successfully completing the testing. The bill contains details.

The bill will take effect on November 1, 2019.

Advocating for Your Community

This year, several bills have been filed that will have a negative impact on our members, which means we need YOU more than ever. Here are a few tips to help you help us.

Stay vigilant, stay informed. Let OML be your clearing house for legislative information and news. OML sends out many GRIP Alerts to our members to let you know when a pressing issue needs your attention. Pay attention to these emails, as we send them for your benefit. You can also read any version of any bill on the Legislature's website at oklegislature.gov.

Be active. If you can't be at the Capitol, call, text, and email your legislators. They want to hear from you!

Act swiftly. Often times, bills heard in committee or on the floor can come and go very quickly. This means that you have a small window to communicate with your legislators. Same day action is paramount.

Send us your comments. Is a particular issue or bill important to your community? Tell us about it. We also frequently send out bills and ask for comments from you for guidance. These comments remain completely in-house, so don't be afraid to speak up. Your words are safe with us!

Build a coalition. Never has the phrase "strength in numbers" been more relevant. Discuss these issues with community leaders and surrounding municipalities. Collaboration is invaluable in the legislative process.

Build a relationship with your legislators. Legislators appreciate hearing from their constituents back home. They're also usually happy to give their phone numbers and email addresses out to remain in contact with you.

Future Issues

Look for the Legislative Advocate to highlight bills that exemplify the ways in which municipalities are squeezed dry. We will also highlight some positive developments from the Capitol including bills that we are lobbying on behalf of individual members.

Cities and towns either win or lose together at the State Capitol since it takes a majority of legislators from all over the state – whether urban or rural, democrat or republican – to carry the day. The number-one ingredient for success at the legislature and state agencies is a united collective municipal voice.
