

**OPINION**  
**47-30**

July 15, 1947           (OPINION)

CITIES

RE: Claims Against Municipalities - Form of

Re: Sections 54-1404, 40-0112, 40-3311, 40-1606, 6-0125

Yours of the 11th inst. with reference to the above sections has been received and has come to my desk for attention.

It is my opinion that section 54-1404 applies only to proof of claims against the State itself. It applies to municipalities only as made so by other enactments. Thus section 40-0112 specifically provides that "no account or claims against a municipality shall be allowed by the governing body thereof unless the claim is made out in full and is itemized in the form prescribed in section 54-1404." Therefore section 54-1404 clearly applies to the form only of the claim presented to a municipality. This is made clear by the "Reviser's Note" to the section which reads as follows:

"REVISER'S NOTE: This section is revised to make it applicable in all municipalities. S. 40-1606 provides for the filing of claims and demands with a city auditor and prescribes the duties of the auditor in connection with such claims. Such section requires the auditor to determine whether or not a claim is properly itemized and sworn to, but there is no specific provision covering, with regard to all municipalities, the matter contained in this revised section. There is no specific provision relating to form in which a claim against a municipality shall be filed. S.L. 1915, c. 244 provides the form of certificate to be attached to any claim against the state. This chapter is considered applicable to all municipalities, so the term 'in the form prescribed in section 54-1404' has been added for clarity."

The meaning of the words "made out in full" is obscure but surely does not of itself require the claim "made out in full and itemized" to be verified or certified as required by section 54-1404. Verification and certification are wholly different things. Verification implies an oath take and a matter sworn to before a person qualified to administer is a mere formal statement as to a matter. Perjury can be predicated upon a false oath but not upon a false certificate.

However, it is my further opinion that claims against a city must be sworn to, not merely certified to be correct. Section 40-1606 requires that all claims against a city must be filed with the city auditor. He must examine all claims and "determine whether or not it is properly itemized and sworn to." No claim can be allowed by the city council until it has been examined and reported to it by the City Auditor. Surely this section requires all claims against the city to be sworn to, mere certification is not enough.

Section 40-3311 does not relate in any degree to the manner of making out a claim against a city which claim is to be paid out of its utilities fund. It is my opinion, therefore, that such a claim must be made out in the form required by section 40-0112 and sworn to as required by section 40-1606. The foregoing answers your questions 1 and 2. As for your question 3, it is my opinion that the State Examiner is authorized to issue a directive order to all city governing boards requiring that all claims against a city payable out of any of its funds, including claims payable out of its utilities fund, be properly made out in full and itemized as required by section 40-0112 and sworn to as required by section 40-1606.

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