

113165

ORDINANCE NO. 1051-08

AN ORDINANCE SETTING COMPENSATION FOR
ABSENTEE ELECTIONS MANAGER

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA,
as follows:

SECTION 1.

That compensation for the Absentee Elections Manager for the City of Foley, shall be and the same is hereby fixed at the sum of \$50.00 per day for each day absentee elections services are performed from the date of delivery of the absentee ballots to the absentee elections manager and including the day of the election, to be paid from the city treasury.

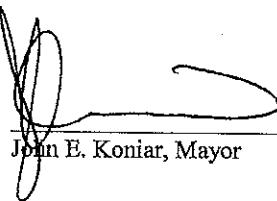
SECTION 2.

That this ordinance is adopted pursuant to Section 17-11-14 *Code of Alabama 1975*, and shall be effective in all elections, general, run-off, and special, from and after the date of adoption.

SECTION 3.

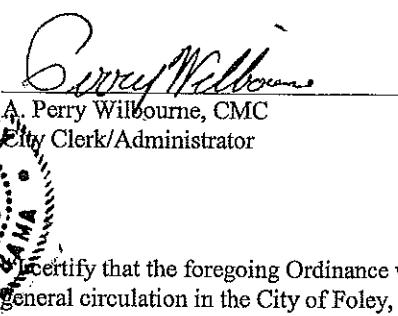
That this Ordinance shall become effective upon its adoption and publication as required by law.

ADOPTED this 15th day of July, 2008.



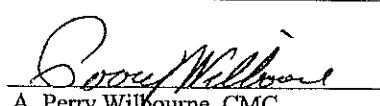
John E. Koniar, Mayor

ATTEST:



A. Perry Wilbourne, CMC
City Clerk/Administrator

I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, in its issue of Saturday, July 26, 2008.



A. Perry Wilbourne, CMC
City Clerk/Administrator

Update to Addendum Four – Compensation of Absentee Ballot Manager

The League has been asked whether Section 11-43-6, Code of Alabama 1975, has any impact on the issue of compensating the absentee elections manager in municipal elections given that municipalities may have existing ordinances in place that were adopted pursuant to this Section.

Section 11-43-6, Code of Alabama 1975, states:

"Provision for compensation of and disposition of fees collected by municipal officers generally.

"It may be provided by ordinance that any city or town officer, elected or appointed, shall receive a salary in lieu of all other compensation, and, in such cases, such officer shall not receive for his own use any fees or other compensation for his services as such officer but shall collect the fees authorized by law or ordinance and pay the same into the city or town treasury."

This statute, which has not been amended since 1940, authorizes a municipality to adopt an ordinance establishing that the salary of any officer shall be in lieu of all other compensation.

The compensation authorized for the absentee elections manager by Section 17-11-14, is payment for handling duties related to absentee balloting. This compensation was authorized by a legislative act passed in 2006.

As noted in our posting below, the city clerk serves as the absentee elections manager by virtue of holding the office of city clerk. Essentially, Section 17-11-14 establishes extra compensation that the clerk receives for performing duties as absentee elections manager.

Section 11-43-6 does not appear to have been construed in a situation similar to this. There have been no cases or Attorney General's Opinions construing this provision in these circumstances. However, based on the specific language in Section 11-43-6, an argument can be made that a municipal council has the authority to adopt an ordinance that prevents the payment of additional compensation to the clerk for performing duties as the absentee elections manager.

Because Section 11-43-6 was first enacted in 1907, it is entirely possible that some municipalities already have existing ordinances in place that prohibit certain officers from receiving compensation other than their salaries. Municipalities should check their local ordinances to determine whether such an ordinance exists.