SHELBY COUNTY BOARD OF COMMISSIONERS
AGENDA ROUTE SHEET

Referred to Commission Committee (name) Legislative

For Commission Action on (date) November 12, 2008

RESOLUTION BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, REQUESTING THE MEMBERS OF THE TENNESSEE GENERAL ASSEMBLY TO SUPPORT LEGISLATION AMENDING TENNESSEE CODE ANNOTATED, TITLE 62, CHAPTER 5, SECTION 102, RELATIVE TO THE EXEMPTION OF CEMETERIES OWNED BY MUNICIPALITIES OR COUNTY GOVERNMENTS FROM THE PROVISIONS OF FUNERAL DIRECTORS AND EMBALMERS ACT AS ENUMERATED IN TENNESSEE CODE ANNOTATED, TITLE 62, CHAPTER 5, SECTION 101 ET SEQ. SPONSORED BY COMMISSIONER JOYCE AVERY.

CHECK ALL THAT APPLY BELOW:

__X__ This Action does NOT require expenditure of funds.

_____ This Item requires/approves expenditure of funds as follows (complete all that apply):

County General Funds: $_____: County CIP Funds: $_____

State Grant Funds: $_____: State Gas Tax Funds: $_____

Federal Grant Funds: $_____

Other funds (Specify source and amount): $_____

Other pass-thru funds (Specify source and amount): $ _____

Originating Department: Division of Health Services- Environmental Health Department

APPROVAL:

	(Type your name & phone #.)	(Initials)	(Date)
Dept. Head:			
Elected Official:			
Division Director:	Dottie Jones 545-4274	XD	11/04/08
CIP – A&F Director:			
Finance Dept.:	Mike Swift	MAR	11/5/08
County Attorney:	Christy Kinard 545-4233	CK	11-04-08
CAO/Mayor:	James F. Huntzicker 545-4514	JFH	11-5-08

SUMMARY SHEET

I. Description of Item

Resolution requesting members of the Tennessee General Assembly to support legislation amending Tennessee Code Annotated, Title 62, Chapter 5, Section 102, relative to the exemption of cemeteries owned by municipalities or county governments from the provision of funeral directors and embalmers act as enumerated in Tennessee Code Annotated, Title 62, Chapter 5 Section 101 ET SEQ.

Shelby County Government has operated the Shelby County Cemetery since 1965 to provide burials for indigent Shelby County citizens. The Shelby County Cemetery provides limited burial services and a burial plot at no cost for qualified persons. The Executive Director of the Tennessee Board of Funeral Homes and Embalmers has recently determined that the Shelby County Cemetery is engaging in an act of funeral directing by performing the act of placing caskets containing the bodies of deceased persons in gravesites. Since September 2008, the Executive Director of the Tennessee Board of Funeral Homes and Embalmers has required Shelby County Government to have a Licensed Funeral Director present at every burial at the Shelby County Cemetery. The Shelby County Cemetery does not employ a Licensed Funeral Director, nor does it engage in other activities or services performed by funeral homes. This requirement has created an unnecessary hardship on Shelby County employees at the Cemetery to locate a Licensed Funeral Director for every burial and continued compliance would require additional funds be expended to hire either a full-time or part-time funeral director, and such person would perform no additional necessary services.

II. Source and Amount of Funding

Not applicable.

III. Contract Items

Not applicable.

IV. Additional Information Relevant to Approval of this Item

Text of proposed legislation is attached.

ITEM NO: _____ PREPARED BY: Janet L. Shipman

APPROVED BY: Christy L. Kinard
Assistant County Attorney

A RESOLUTION BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, REQUESTING THE MEMBERS OF THE TENNESSEE GENERAL ASSEMBLY TO SUPPORT LEGISLATION AMENDING TENNESSEE CODE ANNOTATED, TITLE 62, CHAPTER 5, SECTION 102 RELATIVE TO THE EXEMPTION OF CEMETERIES OWNED BY MUNICIPALITIES OR COUNTY GOVERNMENTS FROM THE PROVISIONS OF FUNERAL DIRECTORS AND EMBALMERS ACT AS ENUMERATED IN TENNESSEE CODE ANNOTATED, TITLE 62, CHAPTER 5, SECTION 101 ET SEQ. SPONSORED BY COMMISSIONER JOYCE AVERY.

WHEREAS, Shelby County Government has operated the Shelby County Cemetery at 8360 Ellis Road since 1965 to provide burials for indigent Shelby County citizens; and

WHEREAS, The Shelby County Cemetery provides limited burial services and a burial plot at no cost for qualified persons; and

WHEREAS, The Executive Director of the Tennessee Board of Funeral Homes and Embalmers has recently determined that T.C.A. 62-5-102 does not exempt municipal or county owned cemeteries from complying with T.C.A. 62-5-101 et seq., also known as the Funeral Directors and Embalmers Act; and

WHEREAS, The Executive Director of the Tennessee Board of Funeral Homes and Embalmers has recently determined that the Shelby County Cemetery is engaging in an act of funeral directing by performing the act of placing caskets containing the bodies of deceased persons in gravesites; and

WHEREAS, Since September 2008, the Executive Director of the Tennessee Board of Funeral Homes and Embalmers has required Shelby County Government to have a Licensed Funeral Director present at every burial at the Shelby County Cemetery; and

WHEREAS, The Shelby County Cemetery does not employ a Licensed Funeral Director, nor does it engage in other activities or services performed by funeral homes or require purchase of funeral supplies or equipment nor the purchase of a burial plot; and

WHEREAS, This requirement has created an unnecessary hardship on Shelby County employees at the Cemetery to locate a Licensed Funeral Director for every burial and continued compliance would require additional funds be expended to hire either a full-time or part-time licensed funeral director, and such person would perform no additional necessary services; and

WHEREAS, the Board of County Commissioners of Shelby County, Tennessee, believes that it is appropriate that a resolution be passed requesting the Tennessee General Assembly to amend Tennessee Code Annotated, Title 62, Chapter 5, Section 102 to include a specific exemption for municipal or county owned cemeteries to be relieved from the provisions of Tennessee Code Annotated, Title 62, Chapter 5, Section 101, et seq.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that this Board, after careful consideration hereby requests the Shelby County Legislative Delegation and members of the Tennessee General Assembly to enact legislation amending Tennessee Code Annotated, Title 62, Chapter 5, Section 102, a copy of which is attached hereto and made a part hereof, amending Tennessee Code Annotated, relative to cemeteries owned by municipalities or county governments from the provisions of Tennessee Code Annotated, Title 62, Chapter 5, Section 101, et seq.

BE IT FURTHER RESOLVED, that the Shelby County Legislative Delegation and members of the Tennessee General Assembly be made aware of this request by copy of this resolution.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, the public welfare requiring the same.

_____
A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

_____
Clerk of County Commission

ADOPTED: _____

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5, Section 102 relative to the exemption of municipally or county owned cemeteries from the provisions of the Funeral Directors and Embalmers Act, Tennessee Code Annotated, Title 62, Chapter 5, Section 101, et seq.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-5-102, is hereby amended by adding the following as a newly designated subsection:

The provisions of this chapter and following chapters of the Funeral Directors and Embalmers Act do not apply to cemeteries owned by a municipal or county government, provided that such cemeteries are not operated for profit, and provided that no funds of the cemeteries are used or expended, directly or indirectly, to employ any persons engaged in the sale of any funeral activities, supplies or equipment, or to provide for the purchase of any caskets or other funeral merchandise, or require payment for the purchase of a burial plot.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.