

2018 Third Extraordinary Session

HOUSE RESOLUTION NO. 6

BY REPRESENTATIVE GLOVER

COMMERCE: Provides for examination relative to the fiduciary duties of the RACER trust and constitutionality of the current lease agreement for the General Motors Shreveport plant

1 A RESOLUTION

2 To create and provide for a subcommittee of the House Committee on Commerce to
3 examine certain matters relative to the Revitalizing Auto Communities
4 Environmental Response Trust's (hereinafter "RACER Trust") fulfillment of
5 fiduciary duties concerning the former General Motors Shreveport plant (hereinafter
6 "GM-Shreveport plant") and operations, and to determine whether provisions of the
7 GM-Shreveport plant lease agreement violate Article VII, Section 14(A) of the
8 Constitution of Louisiana.

9 WHEREAS, in 2008, the United States' domestic automotive industry was on the
10 verge of collapse; and

11 WHEREAS, in recognition of the impending collapse, groups of interested parties,
12 including impacted communities, coalesced around common goals geared toward preventing
13 the collapse of and preserving General Motors, the most important component of United
14 States' based automobile manufacturing; and

15 WHEREAS, these groups were adamant and vocal and took the lead in calling for
16 federal intervention to prevent the collapse of the industry; and

17 WHEREAS, these groups also advocated for assistance and protection for the local
18 communities that would ultimately be impacted by the seismic shifts taking place within the
19 domestic automotive industry; and

1 WHEREAS, amongst these advocacy groups was the Mayors and Municipalities
2 Automotive Coalition based in Washington, D.C., and comprised of local officials in
3 automotive communities around the country; and

4 WHEREAS, continued advocacy specifically resulted in a forty-nine billion dollar
5 assistance package from the federal government to the benefit of General Motors; and

6 WHEREAS, the General Motors bankruptcy resulted in eighty-nine former General
7 Motors properties being entrusted to the RACER Trust for the sole purpose of using and
8 leveraging those assets to replace the jobs lost in communities where General Motors plants
9 were closed and shuttered; and

10 WHEREAS, from the forty-nine billion dollar assistance package, more than six
11 hundred million dollars was set aside to fulfill the mission of the RACER Trust; and

12 WHEREAS, approved uses for RACER Trust funds for administrative expenses, as
13 stated in Article 1, Section 1.1.1 of the trust agreement are, "including but not limited to
14 property taxes, liability insurance, security, personnel costs, utilities, maintenance,
15 professional fees, property marketing costs..."; and

16 WHEREAS, all expenses associated with the former GM-Shreveport plant were paid
17 by the new post bankruptcy General Motors until December 31, 2012; and

18 WHEREAS, despite having access to resources that would have covered all carrying
19 expenses and allowed for an unrushed and deliberate due diligence process, the RACER
20 Trust, at the direction of its Redevelopment Manager, Mr. Bruce Rasher, announced in the
21 first week of January 2013, less than one week after the official exit of General Motors from
22 the state of the art GM-Shreveport plant, that the facility would be optioned to and ultimately
23 controlled by Mr. Paul Elio and Elio Motors; and

24 WHEREAS, during February 2013, the RACER Trust and Elio Motors entered into
25 a Purchase and Sale Agreement whereby Elio Motors was expected to acquire from the
26 RACER Trust all of the property, both movable and immovable property, relative to the
27 former GM-Shreveport plant; however, Elio Motors purchased only the movable property
28 and as such, entered into a Security Agreement with the RACER Trust in the amount of
29 twenty-three million dollars to acquire the movable property; and

1 WHEREAS, circumstances changed regarding the sale of all of the former
2 GM-Shreveport plant to Elio Motors; instead, the immovable property of the plant was
3 purchased by the Caddo Parish Industrial Development Board; and

4 WHEREAS, at the request of the Caddo Parish Industrial Development Board, a
5 parent company known as Industrial Realty Group first purchased the immovable property
6 of the former GM-Shreveport plant and immediately resold this same property to the Caddo
7 Parish Industrial Development Board; and

8 WHEREAS, the Caddo Parish Industrial Development Board then leased the
9 immovable property back to Industrial Realty Group; and

10 WHEREAS, as the lessee and property manager of the former GM-Shreveport plant,
11 Industrial Realty Group next subleased a portion of the plant to Elio Motors; and

12 WHEREAS, Elio Motors assumed the plant as a sublessee during the latter part of
13 2013 and was expected to manufacture automobiles, stimulate economic growth, and create
14 approximately one thousand five hundred jobs by the end of 2015; and

15 WHEREAS, since 2013 and currently, Elio Motors is not engaged in automobile
16 manufacturing at the former GM-Shreveport plant, and as a result, related economic
17 development and stimulated growth in this state have not materialized as projected and
18 desired; and

19 WHEREAS, at the time that Mr. Rasher extended the option for Mr. Elio to purchase
20 the GM-Shreveport plant and its assets, Mr. Elio was in substantial debt with a failing
21 engineering firm, was subject to substantial tax liens, and was in active search of
22 employment; and

23 WHEREAS, Mr. Stuart Lichter, CEO of Industrial Realty Group, who ultimately
24 gained control of the former GM-Shreveport plant, described and outlined the plant's worth
25 at an Elio Motors press conference on January 13, 2013; and

26 WHEREAS, Mr. Lichter said the GM-Shreveport plant "was probably the most
27 modern car plant in America", and further stated, "It's fully equipped and the amount of
28 money it saves in start-up costs, I can't even calculate, but its something like five hundred
29 million dollars of equipment sitting in this plant, and you just turn it on!"; and

1 WHEREAS, in fact, less than a decade earlier, General Motors doubled the size of
2 the GM-Shreveport plant and invested almost two billion dollars in the process; and

3 WHEREAS, despite the substantial manufacturing potential of the GM-Shreveport
4 plant and all of the previous failures of Mr. Elio, Mr. Rasher and the RACER Trust first gave
5 Mr. Elio an exclusive option to buy the plant and all of its equipment; and

6 WHEREAS, despite the acknowledged manufacturing potential of the plant, Mr.
7 Rasher spoke to the members of the Caddo Parish Commission almost exclusively about the
8 salvage value of the GM-Shreveport plant, as opposed to its utilization for continued
9 manufacturing; and

10 WHEREAS, the parish administrator and former president of the Caddo Parish
11 Commission both publicly stated that Mr. Rasher's statement to them essentially provided
12 two options:

13 (1) Cooperate with the Industrial Realty Group's and Elio Motors' occupancy and
14 use of the plant.

15 (2) Complete demolition of the plant; and

16 WHEREAS, the option and threat of demolition was likely unwarranted based on the
17 stated value and potential of the plant; and

18 WHEREAS, the conduct of Mr. Rasher and other staff of the RACER Trust denied
19 the people of Caddo Parish and the state of Louisiana the opportunity for a reasonable and
20 appropriate due diligence process for determining how the former GM-Shreveport plant
21 would be used to replace the jobs lost by the plant's closure; and

22 WHEREAS, an industrial development board, created by the Louisiana Legislature,
23 was used to facilitate the current status of the plant; and

24 WHEREAS, certain aspects of the current lease agreement in place between the
25 Caddo Industrial Development Board and the Industrial Development Group could
26 potentially violate Article VII, Section 14(A) of the Constitution of Louisiana; and

27 WHEREAS, such provisions potentially in violation of the constitution could become
28 effective as early as November, 2018; and

29 WHEREAS, Article VII, Section 14(A) of the Constitution of Louisiana describes
30 prohibited uses with respect to donations, loans, or pledges of public credit and provides in

1 pertinent part: "Except as otherwise provided by this constitution, the funds, credit, property,
2 or things of value of the state or of any political subdivision shall not be loaned, pledged, or
3 donated to or for any person, association, or corporation, public or private."; and

4 WHEREAS, it is a matter of state interest and concern that the prospect of the former
5 GM-Shreveport plant's demise may have actually been a false threat used as a catalyst to
6 urge the Caddo Parish Commission and other local and state economic development officials
7 to support and commit the former GM-Shreveport plant into the contractual care of
8 Industrial Realty Group and Elio Motors; and

9 WHEREAS, this matter of state interest and concern warrants further investigation
10 into the provisions of this state's industrial development board statutes provided in Chapters
11 7 and 8 of Title 51 of the Louisiana Revised Statutes of 1950 and Article VII, Section
12 (14)(A) of the Constitution of Louisiana to determine the following:

13 (1) The purpose and intended use of industrial development boards incorporated by
14 municipalities and parishes in the state of Louisiana.

15 (2) Whether powers thereof or the manners of use of such boards have potential to
16 create an unintended consequence of use of public property and resources contrary to the
17 best interests of the citizens of Louisiana.

18 (3) How the Caddo Parish Industrial Development Board may have been used to
19 create a contract contrary to the best use of the GM-Shreveport plant.

20 (4) Whether certain provisions of the current lease agreement for the GM-Shreveport
21 plant may result in a prohibited use of state property as described in Article VII, Section
22 14(A) of the Constitution of Louisiana; and

23 WHEREAS, in light of the dire circumstances surrounding the former
24 GM-Shreveport plant, the state is compelled to examine the process of negotiations which
25 resulted in Industrial Realty Group's and Elio Motors' attainment of the former
26 GM-Shreveport plant, per the recommendation of the RACER Trust; and

27 WHEREAS, contingent upon the findings of the subcommittee, the Legislature of
28 Louisiana and the Department of Economic Development may be equipped with
29 indispensable, essential information for the creation of improved policy to better regulate

1 and safeguard with respect to negotiations expected to further the state's policy of protecting
2 the welfare and future prosperity of its citizens; and

3 WHEREAS, it is appropriate that the subcommittee examine any potential breach of
4 fiduciary duties or obligations which may have resulted in this state's lost opportunities for
5 substantial economic development; and

6 WHEREAS, the assets of the former GM-Shreveport plant possess great potential
7 to be a source of real opportunity for economic growth and job creation in Louisiana, but
8 although publicly owned, no provisions or mechanisms for local oversight are in place to
9 rectify this agreement made in furtherance of the state's economic development that has not
10 materialized to provide an economic benefit to this state; and

11 WHEREAS, House Rule 14.51 pertinently states the following: "Each standing
12 committee...each joint committee...and any subcommittee of such standing or joint
13 committee is hereby specifically and expressly granted the power and authority to hold
14 hearings, subpoena witnesses, administer oaths, require the production of books and records,
15 and to do all other things necessary to accomplish the purposes of the study or investigation
16 assigned to it by the House or by the legislature or by a majority of the members of the
17 committee."

18 THEREFORE, BE IT RESOLVED that the House of Representatives of the
19 Legislature of Louisiana does hereby create a subcommittee of the House Committee on
20 Commerce to further investigate and examine certain matters relative to the RACER Trust's
21 fulfillment of fiduciary duties concerning the former GM-Shreveport plant and operations.

22 BE IT FURTHER RESOLVED that the subcommittee shall, nonexclusively,
23 investigate the process by which the RACER Trust and its representatives chose the current
24 lessee and occupant of the GM-Shreveport plant, determine the statutory use, powers, and
25 functions of industrial development boards, determine whether the use of the Caddo Parish
26 Industrial Development Board relative to the GM-Shreveport plant created an unintended
27 consequence concerning the public property and resources of this state, and to determine
28 whether certain provisions of the lease agreement for the GM-Shreveport plant may result
29 in a prohibited use of state property as provided by the constitution of this state.

1 BE IT FURTHER RESOLVED that the chairman of the House Committee on
2 Commerce shall appoint the members of the subcommittee and designate the chairman and
3 vice chairman of the subcommittee.

4 BE IT FURTHER RESOLVED that the subcommittee shall be responsible for
5 examining all matters relating to the RACER Trust's fulfillment of fiduciary duties and any
6 related issues that the subcommittee deems appropriate and necessary to discharge its duties
7 and responsibilities.

8 BE IT FURTHER RESOLVED that the subcommittee may request and utilize the
9 assistance of any and all public and private sources and may call upon the staff of any
10 department, agency, or official of the state for data and assistance, and all such departments,
11 agencies, and officials shall cooperate with the subcommittee for its intended purposes.

12 BE IT FURTHER RESOLVED that the subcommittee shall make a report of its
13 findings and recommendations, including proposed legislation, to the House Committee on
14 Commerce no later than thirty days prior to the convening of the 2019 Regular Session.

15 BE IT FURTHER RESOLVED that the subcommittee shall be dissolved upon the
16 adjournment sine die of the 2019 Regular Session of the Legislature of Louisiana.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HR 6 Original

2018 Third Extraordinary Session

Glover

Creates and provides for a subcommittee of the House Committee on Commerce to further examine certain matters relative to the Revitalizing Auto Communities Environmental Response Trust's fulfillment of fiduciary duties concerning the former General Motors Shreveport plant and operations.

Requires the subcommittee to make certain determinations regarding industrial development boards and the constitutionality of the current lease agreement for the General Motors Shreveport plant.

Requires the subcommittee to make a report of its findings and recommendations, including proposed legislation, to the committee at least 30 days prior to the 2019 R.S.

Provides that the subcommittee is dissolved upon the adjournment sine die of the 2019 R.S.