

2017 Regular Session

HOUSE RESOLUTION NO. 132

BY REPRESENTATIVE GLOVER

COMMERCE: Provides for the examination of certain matters relative to the fiduciary duties of the RACER trust

1 A RESOLUTION

2 To create and provide for a subcommittee of the House Committee on Commerce to further
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.

7 WHEREAS, R.S. 51:921 pertinently provides the following: "It is the policy of the
8 state of Louisiana, in furtherance of its responsibility to protect the health, public safety,
9 welfare, and future prosperity of the citizens of the state, to fully develop the human,
10 economic, and natural resources of the state through a well-informed and business-oriented
11 Department of Economic Development"; and

12 WHEREAS, in furtherance of the policy set forth, the Department of Economic
13 Development has a "continuing program of commercial and industrial planning, education,
14 cooperation and assistance between the State of Louisiana and foreign countries, the federal
15 government, other states and state, regional, parish and local public and private agencies and
16 individuals"; and

17 WHEREAS, the state has a compelling interest to ensure efficient, honest, and
18 accurate policy effecting the promotion and perpetuation of the aforementioned policy of this
19 state; and

20 WHEREAS, the state also has an interest in creating policy that safeguards against
21 any actions serving to adversely impact or impede economic development in this state; and

1 WHEREAS, after the bankruptcy of General Motors, the United States Bankruptcy
2 Court created the RACER Trust and equipped it with approximately five hundred million
3 dollars and the appropriate fiduciary obligations and responsibilities to "clean up and
4 position for redevelopment the properties and other facilities owned by the former General
5 Motors Corporation", and such properties and facilities necessarily include the former
6 GM-Shreveport plant; and

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

13 WHEREAS, Elio Motors granted the RACER Trust a security interest in its acquired
14 movable property and simultaneously borrowed approximately ten million dollars in capital
15 for start-up costs; and

16 WHEREAS, the RACER Trust agreed to subordinate its security interest to assist
17 Elio Motors in obtaining its additional capital; and

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

21 WHEREAS, at the request of the Caddo Parish Industrial Development Board, a
22 parent company known as Industrial Realty Group, owned by Mr. Stuart Lichter, first
23 purchased the immovable property of the former GM-Shreveport plant and immediately
24 resold this same property to the Caddo Parish Industrial Development Board; and

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

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

1 WHEREAS, Elio Motors assumed the plant as a sublessee during the latter part of
2 2013 and was expected to manufacture automobiles, stimulate economic growth, and create
3 approximately one thousand five hundred jobs by the end of 2015; and

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

8 WHEREAS, with the present and future state of the former GM-Shreveport plant
9 subject to the direction and actions of Industrial Realty Group and Elio Motors, the House
10 Committee on Commerce was interested to hear the testimony of certain stakeholders to
11 identify and expound upon the circumstances, challenges, and barriers surrounding
12 automobile manufacturing and the anticipated accompanying job growth; and

13 WHEREAS, pursuant to House Resolution No. 37 of the 2016 Second Extraordinary
14 Session, the House Committee on Commerce met in Shreveport, Louisiana, on October 26,
15 2016, to do all of the following:

16 (1) Study the state of the automotive manufacturing industry in the state of Louisiana
17 since the onset of the most recent worldwide economic turndown that began in 2008.

18 (2) Investigate and report on the activities of the RACER Trust in the state of
19 Louisiana.

20 (3) Tour and assess the current condition and circumstances of any Louisiana based
21 properties either currently or previously under the control and supervision of the RACER
22 Trust in the state of Louisiana.

23 (4) Take testimony from local, regional, and state officials and economic
24 development stakeholders regarding barriers and obstacles impacting the ability to
25 effectively market facilities either currently or previously under the control of the RACER
26 Trust; and

27 WHEREAS, though representatives were present to testify, the representatives were
28 not parties to nor directly privy to the process of negotiations between the RACER Trust,
29 Industrial Realty Group, the Department of Economic Development, the Caddo Parish
30 Commission, and the Caddo Parish Industrial Development Board; and

1 WHEREAS, the RACER Trust's commitment of the former GM-Shreveport plant
2 to Industrial Realty Group and Elio Motors is a matter of vital concern regarding the
3 economic development in this state, not solely due to the lack of automobile manufacturing
4 on behalf of Elio Motors, but because prior to this divestment, the Department of Economic
5 Development and the North Louisiana Economic Partnership expressed concern regarding
6 the transaction; and

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

10 WHEREAS, despite the value of the assets encompassed within the former
11 GM-Shreveport plant, the RACER Trust is believed to have provided the Caddo Parish
12 Commission with only the following two options in consideration for the eventual fate of
13 the former GM-Shreveport plant:

14 (1) Committal of the former GM-Shreveport plant to Industrial Realty Group.

15 (2) Complete demolition of the plant; and

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

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

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

29 WHEREAS, in light of the dire circumstances surrounding the former
30 GM-Shreveport plant, the state is compelled to examine the process of negotiations which

1 resulted in Industrial Realty Group's and Elio Motors' attainment of the former
2 GM-Shreveport plant, per the recommendation of the RACER Trust; and

3 WHEREAS, contingent upon the findings of the subcommittee, the Legislature of
4 Louisiana and the Department of Economic Development may be equipped with
5 indispensable, essential information for the creation of improved policy to better regulate
6 and safeguard with respect to negotiations expected to further the state's policy of protecting
7 the welfare and future prosperity of its citizens; and

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

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

19 BE IT FURTHER RESOLVED that the chairman of the House Committee on
20 Commerce shall appoint the members of the subcommittee and designate the chairman and
21 vice chairman of the subcommittee.

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

26 BE IT FURTHER RESOLVED that the subcommittee shall conduct such
27 investigations as it finds necessary or appropriate to carry out its purposes; for the purposes
28 of conducting such studies, the subcommittee may call upon the staffs of any department,
29 agency, or official of the state for data and assistance; all such departments, agencies, and

1 officials shall cooperate with the subcommittee; and the subcommittee may request and
2 utilize the assistance of any and all public and private sources.

3 BE IT FURTHER RESOLVED that the subcommittee shall make a report of its
4 findings and recommendations, including proposed legislation, to the House Committee on
5 Commerce no later than thirty days prior to the convening of the 2018 Regular Session.

6 BE IT FURTHER RESOLVED that the subcommittee shall be dissolved upon the
7 adjournment sine die of the 2018 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 132 Original

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Creates and provides for a subcommittee of the House Committee on Commerce to further examine certain matters relative to the RACER Trust's fulfillment of fiduciary duties concerning the former GM-Shreveport plant and operations.

Requires the subcommittee to make a report of its findings and recommendations, including proposed legislation, to the committee no later than 30 days prior to the 2018 R.S.

Provides that the subcommittee is dissolved upon the adjournment sine die of the 2018 R.S.