

First Extraordinary Session, 2005

HOUSE BILL NO. 63

BY REPRESENTATIVES SCHNEIDER, ALEXANDER, BEARD, BOWLER, BRUNEAU, BURNS, CROWE, DOVE, DOWNS, ERDEY, GEYMANN, GREENE, HUTTER, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAMBERT, LANCASTER, MARTINY, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SMILEY, JANE SMITH, STRAIN, TOOMY, TRAHAN, TUCKER, WADDELL, WALSWORTH, WHITE, AND WINSTON AND SENATORS BARHAM, BOASSO, CAIN, DARDENNE, HOLLIS, KOSTELKA, LENTINI, MALONE, MICHOT, QUINN, ROMERO, SCHEDLER, AND THEUNISSEN

RETIREMENT/DROP: Allows certain Hurricane Katrina victims to take in-service distributions from their DROP accounts (Item #59)

1 AN ACT

2 To enact Subpart O of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 11:321, relative to Deferred Retirement  
4 Option Plans of public retirement systems in the state; to allow certain plan  
5 participants who have not separated from service to withdraw the monies in their  
6 plan accounts; to provide relative to such monies for income tax purposes; to provide  
7 for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Subpart O of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana  
10 Revised Statutes of 1950, comprised of R.S. 11:321, is hereby enacted to read as follows:

11 SUBPART O. DISASTER RELIEF; ACCESS TO DEFERRED

12 RETIREMENT OPTION PLAN MONIES

13 §321. Withdrawal of funds from Deferred Retirement Option Plan accounts by  
14 active employees

15 A. For purposes of this Subpart, "retirement system" shall mean any public  
16 retirement system in the state.

1           B. Notwithstanding any other provision of law to the contrary, an individual  
2           who is participating or who has participated in the Deferred Retirement Option Plan  
3           (DROP) or comparable plan of his retirement system and who is still employed in  
4           a position covered by that system shall be allowed to withdraw up to one hundred  
5           thousand dollars of all or part of the funds in his DROP account under the provisions  
6           of this Subpart.

7           C. Such an individual may withdraw funds from his DROP account provided  
8           all of the following requirements are met:

9           (1) On August 28, 2005, the individual was domiciled in a parish which has  
10          been designated under the Robert T. Stafford Disaster Relief and Emergency  
11          Assistance Act as eligible for individual assistance or individual assistance and  
12          public assistance.

13          (2) The individual sustained an economic loss by reason of Hurricane  
14          Katrina.

15          (3) The aggregate amount of such distributions from the account does not  
16          exceed one hundred thousand dollars.

17          (4) Any distribution is made on or after August 25, 2005, and on or before  
18          December 31, 2006.

19          D.(1) If, pursuant to this Subpart, an individual receives a qualified  
20          Hurricane Katrina distribution, the amount of such distribution shall be included in  
21          income by the retirement system, generally ratable over the year of the distribution  
22          and the following two years in accordance with the Katrina Emergency Tax Relief  
23          Act of 2005, referred to in this Subpart as the "Act", unless the individual elects in  
24          writing not to have the ratable distribution apply for any taxable year.

25          (2) The individual shall be responsible for filing an amended return or  
26          returns to claim a refund of the tax attributable to the amount previously included in  
27          income if the individual so qualifies under the Act.

1           (3) Each retirement system shall advise each individual receiving a  
2           Hurricane Katrina distribution pursuant to this Subpart of potential state and federal  
3           tax consequences.

4           E. Each retirement system shall promulgate any rules necessary to  
5           implement the provisions of this Subpart.

6           F. The provisions of this Subpart shall supersede any provision of law to the  
7           contrary, including but not limited to R.S. 11:449(C), 450(B), 789(B), 1152(H),  
8           1312(J), 1456(I)(2), 1530(J)(2), 1642(B), 1763(J), 1938(J)(2), 2144(I), 2221(J)(1),  
9           2257(J)(2), 3005.1(J)(1)(c), 3039.1(J)(2), 3200(12), 3232(K), 3294(G),  
10           3385.1(K)(2), 3551, and 3685(B)(10)(b).

11           Section 2. This Act shall become effective upon signature by the governor or, if not  
12 signed by the governor, upon expiration of the time for bills to become law without signature  
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
15 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Schneider

HB No. 63

**Abstract:** Allows an active public employee who has or is participating in a Deferred Retirement Option Plan (DROP) of a public retirement system to withdraw funds from his account without leaving employment under specific circumstances.

Present law generally provides that no disbursements from a public employee's retirement system DROP account may be made until the employee terminates employment making him eligible for system membership.

Proposed law allows withdrawal of funds from DROP accounts by active employees under specified circumstances, as follows:

- (1) The employee's principal domicile on Aug. 28, 2005, was located in a parish designated under the Robert T. Stafford Disaster Relief and Emergency Assistance Act as eligible for individual assistance or individual assistance and public assistance, namely the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St.

Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana.

- (2) The employee sustained an economic loss by reason of Hurricane Katrina.
- (3) The aggregate amount of such distributions from the account does not exceed \$100,000.
- (4) Any distribution is made on or after Aug. 25, 2005, and on or before Dec. 31, 2006.

Proposed law provides that if, pursuant to proposed law, an individual receives a qualified Hurricane Katrina distribution, the amount of such distribution shall be included in income by the retirement system, generally ratable over the year of distribution and the following two years in accordance with the Katrina Emergency Tax Relief Act of 2005 (the Act), unless the individual elects in writing not to have the ratable distribution apply for any taxable year. Further provides that the individual shall be responsible for filing an amended tax return(s) to claim a refund of the tax attributable to the amount previously included in income if the individual so qualifies under the Act. Further provides that each retirement system will be responsible for informing an individual receiving a Hurricane Katrina distribution of possible state and federal tax consequences.

Proposed law further provides that each public retirement system to which proposed law applies shall promulgate any rules necessary to implement the provisions of proposed law.

Proposed law provides that it supersedes any provision of present law to the contrary, including but not limited to specified provisions.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 11:321)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Retirement to the original bill.

1. Requires each retirement system to inform an individual receiving a Hurricane Katrina distribution of possible state and federal tax consequences.