

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 292
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Short Title: Disability Income Corrections.

(Public)

Sponsors: Senator Block.

Referred to: Pensions and Retirement.

March 27, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE DISABILITY INCOME
PLAN OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-101(3) reads as rewritten:

"(3) 'Benefits' shall mean the monthly disability income payments made pursuant to the provisions of this Article. In the event of death on or after the first day of a month, or in the event the short-term disability benefit ends on or after the first day of a month where the beneficiary is eligible and applies for an early service or a service retirement allowance the first of the following month, the monthly benefit shall not be prorated and shall equal the benefits paid in the previous month."

Sec. 2. G.S. 135-104(a) reads as rewritten:

"(a) A participant shall receive no benefits from the Plan for a period of 60 continuous calendar days from the onset of disability determined as the last actual day of service, the day of the disabling event if the disabling event occurred on a day other than a normal workday, or the day succeeding at least 365 calendar days after service as a teacher or employee, whichever is later. These 60 continuous calendar days may be considered the waiting period before benefits are payable from the Plan. During this waiting period, a participant may be paid such continuation of salary as provided by an employer through the use of sick leave, vacation leave or any other salary continuation.

1 Any such continuation of salary as provided by an employer shall not include any
2 period a participant or beneficiary is in receipt of Workers' Compensation benefits."

3 Sec. 3. G.S. 135-105(d) reads as rewritten:

4 "(d) The provisions of this section shall be administered by the employer and
5 further, the benefits during the first six months of the short-term disability period shall
6 be the full responsibility of and paid by the employer; Provided, further, that upon the
7 completion of the initial six months of the short-term disability period, the employer
8 will continue to be responsible for the short-term benefits to the participant, however,
9 such employer shall notify the ~~Plan on a quarterly basis~~ Plan, at the conclusion of the
10 short-term disability period or upon termination of short-term disability benefits, if
11 earlier, of the amount of short-term benefits paid and the Plan shall reimburse the
12 employer the amounts so paid."

13 Sec. 4. G.S. 135-106 reads as rewritten:

14 **"§ 135-106. Long-term disability benefits.**

15 (a) Upon the application of a beneficiary or participant or of his legal
16 representative or any person deemed by the Board of Trustees to represent the
17 participant or beneficiary, any beneficiary or participant who has had five or more years
18 of membership service may receive long-term disability benefits from the Plan upon
19 approval by the Board of Trustees, commencing on the first day succeeding the
20 conclusion of the short-term disability period provided for in G.S. 135-105, provided
21 the beneficiary or participant makes application for such benefit within 180 days after
22 the short-term disability period ~~ceases~~ ~~ceases, or~~ ~~after~~ salary continuation payments
23 cease, or after monthly payments for Workers' Compensation cease, whichever is later;
24 Provided, that the beneficiary or participant withdraws from active service by
25 terminating employment as a teacher or State employee; Provided, that the Medical
26 Board shall certify that such beneficiary or participant is mentally or physically
27 incapacitated for the further performance of duty, that such incapacity was incurred at
28 the time of active employment and has been continuous thereafter, that such incapacity
29 is likely to be permanent; Provided further that the Medical Board shall not certify any
30 beneficiary or participant as disabled who is in receipt of any payments on account of
31 the same incapacity which existed when the beneficiary first established membership in
32 the Retirement System. The Board of Trustees may extend this 180-day filing
33 requirement upon receipt of clear and convincing evidence that application was delayed
34 through no fault of the disabled beneficiary or participant and was delayed due to the
35 employers' miscalculation of the end of the 180-day filing period. However, in no
36 instance shall the filing period be extended beyond an additional 180 days.

37 The Board of Trustees may require each beneficiary who becomes eligible to receive
38 a long-term disability benefit to have an annual medical review or examination for the
39 first five years and thereafter once every three years after the commencement of benefits
40 under this section. However, the Board of Trustees may require more frequent
41 examinations and upon the advice of the Medical Board shall determine which cases
42 require such examination. Should any beneficiary refuse to submit to any examination
43 required by this subsection or by the Medical Board, his long-term disability benefit
44 shall be suspended until he submits to an examination, and should his refusal last for

1 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board
2 finds that a beneficiary is no longer mentally or physically incapacitated for the further
3 performance of duty, the Medical Board shall so certify this finding to the Board of
4 Trustees, and the Board of Trustees may terminate the beneficiary's long-term disability
5 benefits effective on the last day of the month in which the Medical Board certifies that
6 the beneficiary is no longer disabled.

7 As to the requirement of five years of membership service, any participant or
8 beneficiary who does not have five years of membership service within the 96 calendar
9 months prior to conclusion of the short-term disability period or cessation of salary
10 continuation payments, whichever is later, shall not be eligible for long-term disability
11 benefits.

12 Notwithstanding the requirement that the incapacity was incurred at the time of
13 active employment, any participant who becomes disabled while on an employer
14 approved leave of absence and who is eligible for and in receipt of temporary total
15 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97
16 of the General Statutes, will be eligible for all benefits provided under this Article.

17 (b) After the commencement of benefits under this section, the benefits payable
18 under the terms of this section shall be equal to sixty-five percent (65%) of 1/12th of the
19 annual base rate of compensation last payable to the participant or beneficiary prior to
20 the beginning of the short-term disability period as may be adjusted for percentage
21 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the
22 annual longevity payment to which the participant or beneficiary would be eligible, to a
23 maximum of three thousand nine hundred dollars (\$3,900) per month reduced by any
24 primary Social Security disability benefits and by monthly payments for Workers'
25 Compensation to which the participant or beneficiary may be entitled, but the benefits
26 payable shall be no less than ten dollars (\$10.00) a month. However, a disabled
27 participant may elect to receive any salary continuation as provided in G.S. 135-104 in
28 lieu of long-term disability benefits; provided such election shall not extend the first 36
29 consecutive calendar months of the long-term disability period. An election to receive
30 any salary continuation for any part of any given day shall be in lieu of any long-term
31 benefit payable for that day, provided further, any lump-sum payout for vacation leave
32 shall be treated as if the beneficiary or participant had exhausted the leave and shall be
33 in lieu of any long-term benefit otherwise payable. Notwithstanding the foregoing,
34 upon the completion of four years from the conclusion of the waiting period as provided
35 in G.S. 135-104, the beneficiary's benefit shall be reduced by an amount, as determined
36 by the Board of Trustees, equal to a primary Social Security disability benefit to which
37 the beneficiary might be entitled had the beneficiary been awarded Social Security
38 disability benefits. Provided that, in any event, a beneficiary's benefit shall be reduced
39 by an amount, as determined by the Board of Trustees, equal to a primary Social
40 Security retirement benefit to which the beneficiary might be entitled.

41 Notwithstanding the foregoing, the long-term disability benefit is payable so long as
42 the beneficiary is disabled until the earliest date at which the beneficiary is eligible for
43 an unreduced service retirement allowance from the Retirement System, at which time
44 the beneficiary would receive a retirement allowance calculated on the basis of the

1 beneficiary's average final compensation at the time of disability as adjusted to reflect
2 compensation increases subsequent to the time of disability and the creditable service
3 accumulated by the beneficiary, including creditable service while in receipt of benefits
4 under the Plan.

5 (c) Notwithstanding the foregoing, a beneficiary in receipt of long-term disability
6 benefits who has earnings during ~~the first 36 consecutive calendar months of the long-term~~
7 ~~disability period shall have his long-term disability benefit reduced when the sum of the~~
8 ~~net long-term disability benefit and the earnings equals one hundred percent (100%) of~~
9 ~~monthly compensation adjusted as provided under G.S. 135-108. The net long-term~~
10 ~~benefit shall mean the long-term benefit amount payable as calculated under (b) above,~~
11 ~~after the reduction for Social Security benefits to which the beneficiary might be~~
12 ~~entitled.~~ The net long-term disability benefit shall be reduced dollar-for-dollar for the
13 amount of earnings in excess of the one hundred percent (100%) monthly limit.
14 ~~Provided further, after the first 36 months of the long-term disability period, a beneficiary's~~
15 ~~earnings will not result in any reduction of the monthly long-term disability benefit until the~~
16 ~~monthly earnings equal the net monthly long-term disability benefit. The monthly long-term~~
17 ~~disability benefit will be reduced by one dollar (\$1.00) for each three dollars (\$3.00) of~~
18 ~~monthly earnings in excess of the net long-term disability benefit until the sum of the monthly~~
19 ~~net long-term benefit and monthly earnings reach one hundred percent (100%) of monthly~~
20 ~~compensation adjusted as provided under G.S. 135-108, at which point the monthly long-term~~
21 ~~disability benefit shall be reduced dollar-for-dollar for the amount of earnings in excess of the~~
22 ~~one hundred percent (100%) monthly limit.—Any beneficiary exceeding the earnings~~
23 ~~limitations shall notify the Plan by the fifth of the month succeeding the month in which~~
24 ~~the earnings were received of the amount of earnings in excess of the limitations herein~~
25 ~~provided. Failure to report excess earnings may result in a suspension or termination of~~
26 ~~benefits as determined by the Board of Trustees.~~

27 (d) Notwithstanding the foregoing, a participant or beneficiary who has applied
28 for and been approved by the Medical Board for long-term disability benefits may make
29 an irrevocable election, within 90 days from the date of notification of such approval,
30 and prior to receipt of any long-term disability benefit payments, to forfeit all pending
31 and accrued rights to the long-term disability benefit including any ancillary benefits
32 and retire on an early service retirement allowance or receive a return of accumulated
33 contributions from the Retirement System."

34 Sec. 5. This act is effective upon ratification.