

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 274

Short Title: Retirement Technical Corrections Act of 2015.-AB (Public)

Sponsors: Representatives Gill, L. Bell, Elmore, and Waddell (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Pensions and Retirement.

March 19, 2015

A BILL TO BE ENTITLED
AN ACT TO ENACT THE RETIREMENT TECHNICAL CORRECTIONS ACT OF 2015.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-1(10) reads as rewritten:

"(10) "Employee" shall mean all full-time employees, agents or officers of the State of North Carolina or any of its departments, bureaus and institutions other than educational, whether such employees are elected, appointed or employed: Provided that the term "employee" shall not include any person who is a member of the Consolidated Judicial Retirement System, any member of the General Assembly or any part-time or temporary employee. Notwithstanding any other provision of law, "employee" shall include all employees of the General Assembly except participants in the Legislative Intern Program, pages, and beneficiaries in receipt of a monthly retirement allowance under this Chapter who are reemployed on a temporary basis. "Employee" also includes any participant whose employment is interrupted by reason of service in the Uniformed Services, as that term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353, if that participant was an employee at the time of the interruption; if the participant does not return immediately after that service to employment with a covered employer in this System, then the participant shall be deemed "in service" until the date on which the participant was first eligible to be separated or released from his or her involuntary military service. In all cases of doubt, the Board of Trustees shall determine whether any person is an employee as defined in this Chapter. "Employee" shall also mean every full-time civilian employee of the North Carolina National Guard who is employed pursuant to section 709 of Title 32 of the United States Code and paid from federal appropriated funds, but held by the federal authorities not to be a federal employee: Provided, however, that the authority or agency paying the salaries of such employees shall deduct or cause to be deducted from each employee's salary the employee's contribution in accordance with applicable provisions of G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement System; coverage of employees described in this sentence shall commence upon the first day of the calendar year or fiscal year, whichever is earlier, next following the date of execution of an agreement between the Secretary



1 of Defense of the United States and the Adjutant General of the State acting
2 for the Governor in behalf of the State, but no credit shall be allowed
3 pursuant to this sentence for any service previously rendered in the
4 above-described capacity as a civilian employee of the North Carolina
5 National Guard: Provided, further, that the Adjutant General, in the Adjutant
6 General's discretion, may terminate the Retirement System coverage of the
7 above-described North Carolina National Guard employees if a federal
8 retirement system is established for such employees and the Adjutant
9 General elects to secure coverage of such employees under such federal
10 retirement system. Any full-time civilian employee of the North Carolina
11 National Guard described above who is now or hereafter may become a
12 member of the Retirement System may secure Retirement System credit for
13 such service as a North Carolina National Guard civilian employee for the
14 period preceding the time when such employees became eligible for
15 Retirement System coverage by paying to the Retirement System an amount
16 equal to that which would have constituted employee contributions if the
17 employee had been a member during the years of ineligibility, plus interest.
18 Employees of State agencies, departments, institutions, boards, and
19 commissions who are employed in permanent job positions on a recurring
20 basis ~~and who must work at least 30 or more~~ hours per week for nine or more
21 months per calendar year ~~are in order to be~~ covered by the provisions of this
22 subdivision. On and after August 1, 2001, a person who is a nonimmigrant
23 alien and who otherwise meets the requirements of this subdivision shall not
24 be excluded from the definition of "employee" solely because the person
25 holds a temporary or time-limited visa."

26 **SECTION 2.** G.S. 135-106(b) reads as rewritten:

27 "(b) After the commencement of benefits under this section, the benefits payable under
28 the terms of this section during the first 36 months of the long-term disability period shall be
29 equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable
30 to the participant or beneficiary prior to the beginning of the short-term disability period as may
31 be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent
32 (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would
33 be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced
34 by any primary Social Security disability benefits to which the beneficiary may be entitled,
35 effective as of the first of the month following the month of initial entitlement, and by monthly
36 payments for Workers' Compensation to which the participant or beneficiary may be entitled.
37 When primary Social Security disability benefits are increased by cost-of-living adjustments,
38 the increased reduction shall be applied in the first month following the month in which the
39 member becomes entitled to the increased Social Security benefit. The monthly benefit shall be
40 further reduced by the amount of any monthly payments from the federal Department of
41 Veterans Affairs, any other federal agency or any payments made under the provisions of
42 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
43 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
44 a month. However, a disabled participant may elect to receive any salary continuation as
45 provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall
46 not extend the first 36 consecutive calendar months of the long-term disability period. An
47 election to receive any salary continuation for any part of any given day shall be in lieu of any
48 long-term benefit payable for that day, provided further, any lump-sum payout for vacation
49 leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in
50 lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's
51 benefit shall be reduced during the first 36 months of the long-term disability period by an

1 amount, as determined by the Board of Trustees, equal to a primary Social Security retirement
2 benefit to which the beneficiary might be ~~entitled~~entitled, effective as of the first of the month
3 following the month of initial entitlement.

4 After 36 months of long-term disability, no further benefits are payable under the terms of
5 this section unless the member has been approved and is in receipt of primary Social Security
6 disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of
7 1/12th of the annual base rate of compensation last payable to the participant or beneficiary
8 prior to the beginning of the short-term disability period as may be adjusted for percentage
9 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual
10 longevity payment to which the participant or beneficiary would be eligible, to a maximum of
11 three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security
12 disability benefits to which the beneficiary may be entitled, effective as of the first of the month
13 following the month of initial entitlement, and by monthly payments for Workers'
14 Compensation to which the participant or beneficiary may be entitled. When primary Social
15 Security disability benefits are increased by cost-of-living adjustments, the increased reduction
16 shall be applied in the first month following the month in which the member becomes entitled
17 to the increased Social Security benefit. The monthly benefit shall be further reduced by the
18 amount of any monthly payments from the federal Department of Veterans Affairs, for
19 payments from any other federal agency, or for any payments made under the provisions of
20 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
21 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
22 a month.

23 Notwithstanding the foregoing, the long-term disability benefit is payable so long as the
24 beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the
25 earliest date at which the beneficiary is eligible for an unreduced service retirement allowance
26 from the Retirement System, at which time the beneficiary would receive a retirement
27 allowance calculated on the basis of the beneficiary's average final compensation at the time of
28 disability as adjusted to reflect compensation increases subsequent to the time of disability and
29 the creditable service accumulated by the beneficiary, including creditable service while in
30 receipt of benefits under the Plan. In the event the beneficiary has not been approved and is not
31 in receipt of a primary Social Security disability benefit, the long-term disability benefit shall
32 cease after the first 36 months of the long-term disability period. When such a long-term
33 disability recipient begins receiving this unreduced service retirement allowance from the
34 System, that recipient shall not be subject to the six-month waiting period set forth in
35 G.S. 135-1(20). However, a beneficiary shall be entitled to a restoration of the long-term
36 disability benefit in the event the Social Security Administration grants a retroactive approval
37 for primary Social Security disability benefits with a benefit effective date within the first 36
38 months of the long-term disability period. In such event, the long-term disability benefit shall
39 be restored retroactively to the date of cessation."

40 **SECTION 3.(a)** G.S. 135-151(e) reads as rewritten:

41 "(e) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay
42 benefits in the current ~~fiscal~~calendar year shall be used for payment of the administrative
43 expenses of the QEBA for the current or future ~~fiscal~~calendar years or shall be paid to the
44 Retirement System as an additional employer contribution."

45 **SECTION 3.(b)** G.S. 128-38.10(f) reads as rewritten:

46 "(f) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay
47 benefits in the current ~~fiscal~~calendar year shall be used for payment of the administrative
48 expenses of the QEBA for the current or future ~~fiscal~~calendar years or shall be paid to the
49 Retirement System as an additional employer contribution."

50 **SECTION 4.** G.S. 128-29.1 is repealed.

51 **SECTION 5.** G.S. 114-2.4A(c) reads as rewritten:

- 1 "(c) Exception. – Subsections (b) and (e) of this section shall not apply to ~~funds to~~
2 (1) Funds received by the Department of Health and Human Services to the
3 extent those funds represent the recovery of previously expended Medicaid
4 funds.
5 (2) Funds received by the Escheat Fund and benefit plans administered by the
6 Department of State Treasurer."
7 **SECTION 6.** This act becomes effective July 1, 2015.