

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1738
Second Edition Engrossed 6/8/06

Short Title: Long-Term Disability Amendment.

(Public)

Sponsors: Senator Dalton.

Referred to: Rules and Operations of the Senate.

May 23, 2006

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR TRIAL REHABILITATION PERIODS FOR PERSONS WHO HAVE BEEN RECEIVING LONG-TERM DISABILITY BENEFITS UNDER THE DISABILITY INCOME PLAN OF NORTH CAROLINA TO ALLOW THOSE PERSONS TO ATTEMPT A RETURN TO WORK WITHOUT BEING PENALIZED, AND TO EXTEND THE EFFECTIVE DATE OF CHANGES TO THE DISABILITY PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-101(20) reads as rewritten:

"(20) "Trial Rehabilitation" shall mean a return to service in any capacity, if the return occurs within the waiting period as provided in G.S. 135-104 and shall mean a return to service in the same capacity that existed prior to the disability if the return occurs within the short-term disability period as provided in ~~G.S. 135-105~~, G.S. 135-105 or within the long-term disability period as provided in G.S. 135-106."

SECTION 2. Effective August 1, 2007, G.S. 135-101(20), as rewritten by

Section 1 of this act, reads as rewritten:

"(20) "Trial Rehabilitation" shall mean a return to service in any capacity, if the return occurs within the waiting period as provided in ~~G.S. 135-104~~ and G.S. 135-104; shall mean a return to service in the same capacity that existed prior to the disability if the return occurs within the short-term disability period as provided in ~~G.S. 135-105~~ or ~~within the long-term disability period as provided in G.S. 135-106.~~ G.S. 135-105; and shall mean a return to service in any capacity and in any position provided the salary earned is equal to or greater than the salary upon which the long-term disability benefit is based immediately preceding the return to service, if the return occurs within the long-term disability period as provided in G.S. 135-106."

SECTION 3. G.S. 135-106 is amended by adding a new subsection to read:

1 "(c1) During the long-term disability period, a beneficiary may return to service for
2 trial rehabilitation for periods of not greater than 36 months of continuous service. Such
3 return will not cause the beneficiary to become a participant and will not require a new
4 waiting period or short-term disability period to commence regardless of whether the
5 beneficiary is unable to continue in service due to the same incapacity or a different
6 incapacity.

7 A beneficiary who, during a period of trial rehabilitation, is unable to continue in
8 service may be entitled to a restoration of the long-term disability benefit provided that
9 the Medical Board certifies that the beneficiary is disabled in accordance with the laws
10 in effect at the time of the Board's original approval for long-term disability benefits,
11 either due to the same or a different incapacity, notwithstanding the requirement the
12 incapacity has been continuous. In the event that the Medical Board determines that the
13 long-term disability benefit should be restored, the restored benefit should be calculated
14 in accordance with G.S. 135-106(b); should include any post-disability benefit
15 adjustments as provided by G.S. 135-108; and should not be reduced by an amount
16 equal to a primary Social Security disability benefit to which the beneficiary might be
17 entitled had the beneficiary been awarded Social Security benefits until the beneficiary
18 has been eligible to receive long-term disability benefits for 36 months, including any
19 period the beneficiary elected to receive any salary continuation in lieu of the long-term
20 benefit, but not including any period of trial rehabilitation.

21 A beneficiary who returns to service for a period of trial rehabilitation and who has
22 continued in service for greater than 36 continuous months, shall again become a
23 participant and any subsequent incapacity shall be treated as a new incapacity causing a
24 new waiting period to begin. Such a beneficiary may be entitled to additional long-term
25 disability benefits on account of the new incapacity provided the beneficiary meets all
26 other requirements notwithstanding the requirement of five years of membership service
27 within the 96 calendar months prior to becoming disabled or the cessation of continuous
28 salary continuation payments."

29 **SECTION 4(a).** The introductory language of Section 4 of S.L. 2004-78, as
30 amended by Section 29.30B(a) of S.L. 2005-276, reads as rewritten:

31 **"SECTION 4.** Effective August 1, ~~2006~~, 2007, G.S. 135-106(a), as rewritten by
32 Section 3 of this act, reads as rewritten:"

33 **SECTION 4(b).** Section 6 of S.L. 2004-78, as amended by Section
34 29.30B(b) of S.L. 2005-276, reads as rewritten:

35 **"SECTION 6.** Sections 1 through 3 are effective retroactively from and after July
36 1, 2003. Section 4 of this act becomes effective August 1, ~~2006~~, 2007, and applies only
37 to persons who are not vested in the disability plan in question on that date. The
38 remainder of this act becomes effective when it becomes law."

39 **SECTION 5.** Section 2 of this act becomes effective August 1, 2007. The
40 remainder of this act becomes effective July 1, 2002.