

NORTH CAROLINA GENERAL ASSEMBLY  
1981 SESSION

CHAPTER 975  
SENATE BILL 261

AN ACT TO INDEX TO THE CONSUMER PRICE INDEX THE EARNABLE DIFFERENCE FOR DISABILITY BENEFICIARIES OF THE STATE ADMINISTERED RETIREMENT PROGRAMS.

The General Assembly of North Carolina enacts:

**Section 1.** G.S. 143-166(y) is amended by rewriting the sixth paragraph to read:

"On and after July 1, 1981, the Board of Commissioners shall determine whether a disability beneficiary who retired after July 1, 1981, is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his basic retirement allowance and the gross compensation earned as a law enforcement officer during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation, excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his basic disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the basic disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of one percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his basic disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a basic service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable."

**Sec. 2.** G.S. 128-27(e) is amended by rewriting subparagraph (1) to read:

"The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his average

final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable."

**Sec. 3.** G.S. 135-5(e) is amended by rewriting subparagraph (1) to read:

"The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months of service in the final 48 months prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of one percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability and his age at the time of conversion to service retirement. This election is irrevocable."

**Sec. 4.** G.S. 135-60 is amended by adding a new subparagraph (d) to read:

"(d) The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of one percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable."

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of October, 1981.