

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-74
SENATE BILL 1738**

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:

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

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

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

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

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

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

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

SECTION 5. Section 2 of this act becomes effective August 1, 2007. Section 4 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2002.

In the General Assembly read three times and ratified this the 30th day of June, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan

Speaker Pro Tempore of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:01 p.m. this 10th day of July, 2006