

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-67
HOUSE BILL 274**

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 of Defense of the United States and the Adjutant General of the State acting for the Governor in behalf of the State, but no credit shall be allowed pursuant to this sentence for any service previously rendered in the above-described capacity as a civilian employee of the North Carolina National Guard: Provided, further, that the Adjutant General, in the Adjutant General's discretion, may terminate the Retirement System coverage of the above-described North Carolina National Guard employees if a federal retirement system is established for such employees and the Adjutant General elects to secure coverage of such employees under such federal retirement system. Any full-time civilian employee of the North Carolina National Guard described above who is now or hereafter may become a member of the Retirement System may secure Retirement System credit for



such service as a North Carolina National Guard civilian employee for the period preceding the time when such employees became eligible for Retirement System coverage by paying to the Retirement System an amount equal to that which would have constituted employee contributions if the employee had been a member during the years of ineligibility, plus interest. Employees of State agencies, departments, institutions, boards, and commissions who are employed in permanent job positions on a recurring basis ~~and who must work at least 30 or more hours per week for nine or more months per calendar year~~ are in order to be covered by the provisions of this subdivision. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "employee" solely because the person holds a temporary or time-limited visa."

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

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

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

disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month.

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

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

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

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

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

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

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

"(c) Exception. – Subsections (b) and (e) of this section shall not apply ~~to funds to:~~

(1) Funds received by the Department of Health and Human Services to the extent those funds represent the recovery of previously expended Medicaid funds.

(2) Funds received by the Escheat Fund and benefit plans administered by the Department of State Treasurer."

SECTION 6. G.S. 135-4(g) reads as rewritten:

"(g) Teachers and other State employees who served in the uniformed services as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4303, who were not dishonorably discharged, and who, after being honorably discharged, who returned to the service of the State within a period of two years from date of discharge shall be credited with prior service for such period of service in the uniformed services for the maximum period that they are entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301, et seq., or other federal law, and the salary or compensation of such a teacher or State employee during that period of service is deemed to be that salary or compensation the employee would have received but for the period of service had the employee remained continuously employed, if the determination of that salary or compensation is reasonably certain. If the determination of the salary or compensation is not reasonably certain, then it is deemed to be that employee's average rate of compensation during the 12-month period immediately preceding the period of service. When a member who has served in the uniformed services returns to work in compliance with the conditions of this subsection, that member's employer shall remit to the System all employer and employee contributions for the full period of that member's military service."

SECTION 7. This act becomes effective July 1, 2015.
In the General Assembly read three times and ratified this the 1st day of June, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:00 a.m. this 11th day of June, 2015