

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS85006-LL-37 (1/23)

Short Title: Disability Income/Eliminate Veterans Offset.

(Public)

Sponsors: Senator Berger of Rockingham.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE OFFSET IN THE SHORT-TERM AND LONG-TERM
DISABILITY INCOME PLANS FOR BENEFITS RECEIVED FROM THE
DEPARTMENT OF VETERANS AFFAIRS FOR THE SAME DISABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-105(c) reads as rewritten:

"(c) The monthly benefit as provided in subsection (a) of this section shall be equal to fifty percent (50%) of 1/12th of the annual base rate of compensation last payable to the participant prior to the beginning of the short-term benefit period as may be adjusted for percentage increases as provided under G.S. 135-108 plus fifty percent (50%) of 1/12th of the annual longevity payment to which the participant would be eligible, to a maximum of three thousand dollars (\$3,000) per month reduced by monthly payments for Workers' Compensation to which the participant may be entitled. The monthly benefit shall be further reduced by the amount of any payments from ~~the federal Veterans Administration, any other federal agency, any federal department or agency other than the Department of Veterans Affairs,~~ 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, that should a participant have earnings in an amount greater than the short-term benefit, the amount of the short-term benefit shall be reduced on a dollar-for-dollar basis by the amount that exceeds the short-term benefit."

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 and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. 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~~ any federal department or agency other than the Department of Veterans Affairs, 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



1 the first 36 consecutive calendar months of the long-term disability period. An election to
2 receive any salary continuation for any part of any given day shall be in lieu of any long-term
3 benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be
4 treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any
5 long-term benefit otherwise payable. Provided that, in any event, a beneficiary's benefit shall be
6 reduced during the first 36 months of the long-term disability period by an amount, as
7 determined by the Board of Trustees, equal to a primary Social Security retirement benefit to
8 which the beneficiary might be entitled.

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

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

38 **SECTION 3.** This act becomes effective July 1, 2009, and applies to disability
39 benefits paid on or after that date.