

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS55420-LL-341 (4/27)

Short Title: Long-Term Disability Amendment.

(Public)

Sponsors: Senator Dalton.

Referred to:

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.

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, 2006, 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."

1           **SECTION 3.** Effective August 1, 2006, G.S. 135-106 is amended by adding  
2 a new subsection to read:

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

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

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

31           **SECTION 2.** Section 1 of this act is effective when it becomes law. The  
32 remainder of this act becomes effective July 1, 2002.