

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

H

3

**HOUSE BILL 354
Committee Substitute Favorable 4/7/03
Senate Health & Human Resources Committee Substitute Adopted 7/20/03**

Short Title: Amend Disability Laws.

(Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE DISABILITY INCOME PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 30.20.(k) of S.L. 2003-284 is repealed.

SECTION 2. G.S. 135-106(a), as rewritten by Section 30.20.(l) of S.L. 2003-284, reads as rewritten:

"(a) Upon the application of a beneficiary or participant or of his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, any beneficiary or participant who has had five or more years of membership service may receive long-term disability benefits from the Plan upon approval by the Board of Trustees, commencing on the first day succeeding the conclusion of the short-term disability period provided for in G.S. 135-105, provided the beneficiary or participant makes application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later; Provided, that the beneficiary or participant withdraws from active service by terminating employment as a teacher or State employee; Provided, that the Medical Board shall certify that such beneficiary or participant is unable to perform any occupation ~~for which the beneficiary or participant is reasonably qualified for by or~~ employment commensurate to the beneficiary's or participant's education, training or experience, which is available in the same commuting area for State employees or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than sixty-five percent (65%) of that beneficiary's or participant's predisability earnings, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent; Provided further that the Medical Board shall not certify any beneficiary or participant as disabled who is in receipt of any payments on account of the same

1 incapacity which existed when the beneficiary first established membership in the
2 Retirement System. The Board of Trustees may extend this 180-day filing requirement
3 upon receipt of clear and convincing evidence that application was delayed through no
4 fault of the disabled beneficiary or participant and was delayed due to the employers'
5 miscalculation of the end of the 180-day filing period. However, in no instance shall the
6 filing period be extended beyond an additional 180 days.

7 The Board of Trustees may require each beneficiary who becomes eligible to receive
8 a long-term disability benefit to have an annual medical review or examination for the
9 first five years and thereafter once every three years after the commencement of benefits
10 under this section. However, the Board of Trustees may require more frequent
11 examinations and upon the advice of the Medical Board shall determine which cases
12 require such examination. Should any beneficiary refuse to submit to any examination
13 required by this subsection or by the Medical Board, his long-term disability benefit
14 shall be suspended until he submits to an examination, and should his refusal last for
15 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board
16 finds that a beneficiary is no longer unable to perform any occupation for which the
17 beneficiary or participant is reasonably qualified for by training or experience, the
18 Department of State Treasurer and the Board of Trustees may terminate the
19 beneficiary's long-term disability benefits effective on the last day of the month in
20 which the Medical Board certifies that the beneficiary is no longer disabled.

21 As to the requirement of five years of membership service, any participant or
22 beneficiary who does not have five years of membership service within the 96 calendar
23 months prior to conclusion of the short-term disability period or cessation of salary
24 continuation payments, whichever is later, shall not be eligible for long-term disability
25 benefits.

26 Notwithstanding the requirement that the incapacity was incurred at the time of
27 active employment, any participant who becomes disabled while on an employer
28 approved leave of absence and who is eligible for and in receipt of temporary total
29 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97
30 of the General Statutes, will be eligible for all benefits provided under this Article."

31 **SECTION 3.** Section 1 of this act becomes effective July 1, 2003. Section 2
32 of this act becomes effective July 1, 2004, and applies only to persons who are not
33 vested in the disability plan in question on July 1, 2004. The remainder of this act is
34 effective when it becomes law.