

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 640
HOUSE BILL 639

AN ACT TO ESTABLISH A UNIFORM JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 135 of the General Statutes is hereby amended by inserting therein a new Article 4 to read as follows:

"Article 4.

"Uniform Judicial Retirement Act of 1973.

"§ 135-100. **Short title and purpose.** — (a) This Article shall be known and may be cited as the 'Uniform Judicial Retirement Act of 1973'.

(b) The purpose of this Article is to improve the administration of justice by eliminating certain inequities that now exist in retirement benefits for justices and judges, and by attracting to and retaining on the bench of the General Court of Justice the most highly qualified talent available within the State.

"§ 135-101. **Scope.** — (a) This Article provides uniform retirement benefits for all justices and judges of the General Court of Justice who are so serving on the effective date of this act, or who become such thereafter.

(b) For justices and judges of the Appellate and Superior Court Divisions of the General Court of Justice who so served prior to the effective date of this act, the provisions of this Article supplement, and, under certain circumstances, replace, the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes. For judges of the District Court Division of the General Court of Justice who so served prior to the effective date of this act, the provisions of this Article supplement, and, under certain circumstances, replace, the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge on or after the effective date of this act shall be determined solely in accordance with the provisions of this Article.

"§ 135-102. **Application of Article 1; administration.** — (a) References in Article 1 of this Chapter to the provisions of 'this Chapter' shall not necessarily apply to this Article. However, except as otherwise provided in this Article, the provisions of Article 1 are applicable and shall apply to and govern the administration of the Retirement System established hereby. Not in limitation of the foregoing, the provisions of G.S. 135-5(h), 135-5(n), 135-9, 135-10, 135-12 and 135-17 are specifically applicable to the Retirement System established hereby.

(b) The provisions of this Article shall be administered by the Board of Trustees of the Teachers' and State Employees' Retirement System.

"§ 135-103. **Definitions.** — The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) 'Accumulated contributions' with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-118 since he last became a member and credited to his account in the annuity savings fund, plus any amount standing to his credit pursuant to G.S. 135-117(c) as a result of a prior period of membership, plus any amounts credited to his account pursuant to G.S. 135-28.1(b) or G.S. 135-

- 106(b), together with regular interest on all such amounts computed as provided in G.S. 135-7(b).
- (2) 'Actuarial equivalent' shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.
 - (3) 'Beneficiary' shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.
 - (4) 'Board of Trustees' shall mean the Board of Trustees established by G.S. 135-6.
 - (5) 'Compensation' shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge.
 - (6) 'Creditable service' shall mean for any member the total of his prior service plus his membership service.
 - (7) 'Filing' when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.
 - (8) 'Final compensation' shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.
 - (9) 'Judge' shall mean any justice or judge of the General Court of Justice and the Administrative Officer of the Courts.
 - (10) 'Medical Board' shall mean the board of physicians provided for in G.S. 135-6.
 - (11) 'Member' shall mean any person included in the membership of the Retirement System as provided in this Article.
 - (12) 'Membership service' shall mean service as a judge rendered while a member of the Retirement System.
 - (13) 'Previous system' shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such article or articles were formerly applicable to the member, and in the case of judges of the district court division of the General Court of Justice, the Teachers' and State Employees' Retirement System.
 - (14) 'Prior service' shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-106.
 - (15) 'Regular interest' shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).
 - (16) 'Retirement' shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.
 - (17) 'Retirement allowance' shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.
 - (18) 'Retirement System' shall mean the Uniform Judicial Retirement System of North Carolina, as established in this Article.
 - (19) 'Year' as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees.

"§ 135-104. **Name and date of establishment.** — A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the 'Uniform Judicial Retirement System of North Carolina', and by such name all of its business shall be transacted.

"§ 135-105. **Membership.** — (a) The membership of the Retirement System shall consist of:

- (i) all judges in office on January 1, 1974; and
 - (ii) all persons who become judges or reenter service as judges after January 1, 1974.
- (b) The membership of any person in the Retirement System shall cease upon:
- (i) the withdrawal of his accumulated contributions after he is no longer a judge, or
 - (ii) his retirement under the provisions of the Retirement System, or
 - (iii) his death.

"§ 135-106. **Creditable service.** — (a) Subject to such rules and regulations as the Board of Trustees shall adopt with regard to the verification of a member's prior service, the prior service of a member shall consist of his service rendered prior to January 1, 1974, as a justice of the Supreme Court, judge of the Court of Appeals, judge of the Superior Court, judge of the District Court Division of the General Court of Justice, or as Administrative Officer of the Courts.

(b) When membership ceases as a result of a member's withdrawal of his accumulated contributions, the prior service and previous membership service of the member shall no longer be considered to be creditable service; provided, however, that if a member whose creditable service has been cancelled in accordance with this subsection subsequently returns to membership for a period of five years, he may thereafter repay in a lump sum the amount withdrawn plus regular interest thereon from the date of withdrawal through the date of repayment and thereby increase his creditable service by the amount of creditable service lost when he withdrew his accumulated contributions.

"§ 135-107. **Service retirement.** — (a) Any member in service on or after January 1, 1974, who has attained his 50th birthday may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution of and the filing thereof, he desires to be retired.

(b) Any member who is a justice or judge of the Appellate Division of the General Court of Justice shall be automatically retired as of the first day of the calendar month coinciding with or next following the later of January 1, 1974, or his attainment of his 72nd birthday and each other member shall be automatically retired as of the first day of the calendar month coinciding with or next following the later of January 1, 1974, or his attainment of his 70th birthday; provided, however, that no judge who is a member on January 1, 1974, shall be forced to retire under the provisions of this subsection at an earlier date than the last day that he is permitted to remain in office under the provisions of G.S. 7A-4.20.

(c) Any member who terminates service on or after January 1, 1974, having accumulated five or more years of creditable service may retire under the provisions of subsection (a) above, provided that he shall not have withdrawn his accumulated contributions prior to the effective date of his retirement, and the requirement of subsection (a) that the member be in service shall not apply.

"§ 135-108. **Service retirement benefits.** — (a) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-107 after he either has attained his 65th birthday or has completed 24 years or more of creditable service shall receive an annual retirement

allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (i), (ii) and (iii) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of his final compensation:

- (i) Four percent (4%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (ii) Three and one-half percent (3 1/2%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the Superior Court or as Administrative Officer of the Courts;
- (iii) Three percent (3%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the District Court Division of the General Court of Justice.

(b) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-107 before he either has attained his 65th birthday or has completed 24 years of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be determined in the same manner and be subject to the same maximum limitation as provided for in subsection (a) above except that the allowance so computed shall be reduced by one quarter of one percent (1/4 of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the earlier of

- (i) the member's 65th birthday, or
- (ii) the date the member would have completed 24 years of creditable service if he had been in service as a judge from his retirement date until such date. For the sole purpose of determining whether a member has completed the required 24 years of creditable service referred to in this subsection (b) or the date on which he would have completed such period of creditable service if he had remained in service as a judge, in the case of a member of the Teachers' and State Employees' Retirement System who became a member of this Retirement System under circumstances described in G.S. 135-28.1, and who at the time of his retirement hereunder is in service and has retained his membership in the Teachers' and State Employees' Retirement System as provided for in G.S. 135-28.1, his creditable service shall be taken as the sum of his creditable service hereunder plus the amount of creditable service remaining to his credit in such other system as provided for in G.S. 135-28.1.

(c) The foregoing subsections of this section to the contrary notwithstanding, in no event will the retirement allowance initially payable upon the retirement of any member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-111, be less than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted.

(d) Commencing with the payment for the month of January 1974, the retirement allowance of each retired member of a previous system who was in receipt of a retirement

allowance thereunder as of January 1, 1974, shall be paid from the assets of the Retirement System in the same amount as would have been applicable for January 1974, if this Article had not been enacted.

"§ 135-109. Disability retirement. — Upon application by or on behalf of the member, any member in service who has completed five or more years of creditable service and who has not attained his 65th birthday may be retired by the Board of Trustees, on the first day of any calendar month, not less than 30 and not more than 90 days next following the date of filing such application, on a disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; and, provided further, that if a member is removed by the Supreme Court for mental or physical incapacity under the provisions of G.S. 7A-376, no action is required by the medical board under this section.

"§ 135-110. Disability retirement benefits. — (a) Upon retirement for disability in accordance with G.S. 135-109, a member shall receive a disability retirement allowance computed and payable as provided for service retirement in G.S. 135-108(a) except that the member's creditable service shall be taken as the creditable service he would have completed at his 65th birthday if he had continued in service to such birthday as a judge in the same Division of the General Court of Justice in which he was serving on his disability retirement date.

(b) Once each year during the first five years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained his 60th birthday to undergo a medical examination, such examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by a physician or physicians designated by the Board of Trustees. Should any disability beneficiary who has not yet attained his 60th birthday refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, it shall be assumed that he is no longer disabled.

(c) Should the medical board certify to the Board of Trustees that a disability beneficiary prior to his 65th birthday has recovered to the extent that he would not satisfy the requirements for disability retirement if he were an active member of the Retirement System, or if his disability shall be assumed to have terminated in accordance with subsection (b) above, his disability retirement allowance shall thereupon cease, he shall be restored as a member of the Retirement System, and the period during which he was in receipt of a disability retirement allowance shall not be included in his creditable service.

"§ 135-111. Election of optional allowance. — Any member who retires under the provisions of this Article shall have the right to elect to have his allowance payable under any one of the optional forms provided for in G.S. 135-5(g), subject to the conditions therein contained, in lieu of the allowance that would otherwise be payable.

"§ 135-112. Return of accumulated contributions. — (a) Should a member cease to be a judge otherwise than by death or retirement under the provisions of this Article, he shall, upon submission of an application, be paid, not earlier than 60 days from receipt in the Raleigh offices of the Board of Trustees of an acceptable application on a form provided by the Retirement System, the amount of his accumulated contributions, provided that he has not in the meantime returned to service as a judge. Upon payment of such accumulated contributions his membership in the Retirement System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered, except as otherwise provided in G.S. 135-106(b). Any such payment of a member's accumulated contributions shall

be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article.

(b) Any other provision of this Article to the contrary notwithstanding, there shall be deducted from any amount otherwise payable hereunder any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by reason of the embezzlement of fees collected by the member for any agency or subdivision of the State; provided that, notwithstanding any other provisions of this Article, even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be a judge, any amount due such agency or subdivision by reason of any outstanding overpayment of salary or embezzlement of fees shall be paid to such agency or subdivision by the Retirement System upon demand; and provided further, that such agency or subdivision shall have notified the director of any amount so due and that the Retirement System shall have no liability for amounts so deducted and transmitted to such agency or subdivision nor for any failure by the Retirement System for any reason to make such deductions.

"§ 135-113. Benefits on death before retirement. — (a) Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a member in service, there shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the sum of

- (i) the member's accumulated contributions, plus
- (ii) the member's final compensation;

provided, however, that if the member has attained his 50th birthday at his date of death, and if the designated recipient of the death benefits is the member's spouse who survives him, and if the spouse so elects, then the lump sum death benefit provided for herein shall consist only of a payment equal to the member's final compensation and there shall be paid to the surviving spouse an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month coinciding with or next following the death of the member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be equal to one-half of the amount of the retirement allowance to which the member would have been entitled had he retired under the provisions of G.S. 135-107(a) on the first day of the calendar month coinciding with or next following his date of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the member at his date of death exceeds that of his spouse. If the retirement allowance to the spouse shall terminate on the remarriage or death of the spouse before the total of the retirement allowance payments made equals the amount of the member's accumulated contributions at date of death, the excess of such accumulated contributions over the total of the retirement allowances paid to the spouse shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time such payment falls due, otherwise to the former member's legal representatives.

(b) There shall be paid to the surviving unremarried spouse of any former judge who died in service prior to January 1, 1974, and after his 50th birthday an annual retirement allowance which shall commence on January 1, 1974, and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be computed in accordance with the provisions of subsection (a) above as if the provisions of this Article had been in effect on the date of death of the former judge, and the final compensation of such former judge had been equal to the rate of annual compensation in effect on December 31, 1973, for the office held by the former judge at the time of his death.

(c) Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a member not in service, there shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the member's accumulated contributions.

"§ 135-114. Benefits on death after retirement. — (a) In the event of the death of a former member while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-107, or after a former member's 65th birthday while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-109, there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one-half of the allowance that was payable to the former member for the month immediately prior to his month of death, or which would have been so payable had an optional mode of payment not been elected under the provisions of G.S. 135-111, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of his spouse.

(b) In the event of the death of a former member prior to his 65th birthday while in receipt of a retirement allowance pursuant to his retirement under the provisions G.S. 135-109, there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one-half of the allowance to which the former member would have been entitled under the provisions of G.S. 135-108 if he had remained in service from his disability retirement date to his date of death with no change in his final compensation or status and had then retired, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of his spouse.

(c) In the event of the death of a former member while in receipt of a retirement allowance under the provisions of G.S. 135-108 or G.S. 135-110 (but not G.S. 135-111), if such former member is not survived by a spouse to whom a retirement allowance is payable under the provisions of subsection (a) or subsection (b) above; there shall be paid to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the member at his date of retirement over the total of the retirement allowances paid to him prior to his death.

(d) In the event that a retirement allowance becomes payable to the spouse of a former member under the provisions of subsection (a) or subsection (b) above, provided that the member's retirement allowance had not been paid under one of the optional modes of payment under G.S. 135-111, and such retirement allowance to the spouse shall terminate on the remarriage or death of the spouse before the total of the retirement allowances paid to the former member and his spouse combined equals the amount of the member's accumulated contributions at his date of retirement, the excess of such accumulated contributions over the total of the retirement allowances paid to the former member and his spouse combined shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time such payment falls due, otherwise to the former member's legal representatives.

(e) In the event of the death of a retired former judge while in receipt of a retirement allowance under the provisions of G.S. 135-108(d), there shall be paid to the former judge's

surviving spouse, if any, an annual retirement allowance payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former judge and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one-half of the allowance that was payable to the former judge for the month immediately prior to his month of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeds that of his spouse.

(f) There shall be paid to the surviving unremarried spouse of any former judge who died prior to January 1, 1974, while in receipt of a retirement allowance under the provisions of a previous system, a retirement allowance which shall commence on January 1, 1974, and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be equal to one-half of the allowance that would have been payable to the former judge for the month of December 1973, if the previous system had been in effect at his date of retirement and if he had survived to January 1, 1974, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeded that of his spouse.

"§ 135-115. Post-retirement increases in allowances. — Commencing with the post-retirement adjustment effective July 1, 1974, all retirement allowances payable under the provisions of this Article shall be adjusted annually in accordance with the provisions of G.S. 135-5(o).

"§ 135-116. Administration; management of funds. — The provisions of G.S. 135-6, 135-7, 135-7.1 and 135-7.2 shall be applicable to the administration of this Retirement System and to the assets thereof.

The assets of this Retirement System may be commingled for investment purposes with those of the Teachers' and State Employees' Retirement System, but the records of the Board of Trustees shall at all times show the relative interest of each system in the commingled funds.

"§ 135-117. Assets of Retirement System. — (a) All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one of two funds, namely, the annuity savings fund and the pension accumulation fund.

(b) The annuity savings fund shall be the fund to which all members' contributions, and regular interest allowances thereon as provided for in G.S. 135-7(b), shall be credited. From this fund shall be paid the accumulated contributions of a member in accordance with G.S. 135-112, or G.S. 135-113.

(c) Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund. In the event that a retired former member should subsequently again become a member of the Retirement System as provided for in G.S. 135-110(c) or G.S. 135-121, any excess of his accumulated contributions at his date of retirement over the sum of the retirement allowance payments received by him since his date of retirement shall be transferred from the pension accumulation fund to the annuity savings fund and shall be credited to his individual account in the annuity savings fund.

(d) The pension accumulation fund shall be the fund in which shall be accumulated contributions by the State and amounts transferred from the annuity savings fund in accordance with subsection (c) above, and to which all income from the invested assets of the Retirement System shall be credited. From this fund shall be paid retirement allowances and any other benefits provided for under this Article except payments of accumulated contributions as provided in subsection (b) above.

(e) The regular interest allowance on the members' accumulated contributions provided for in G.S. 135-7(b) shall be transferred each year from the pension accumulation fund to the annuity savings fund.

"§ 135-118. Contributions by the members. — Each member shall contribute by payroll deduction for each pay period for which he receives compensation six percent (6%) of his compensation for such period.

"§ 135-119. Contributions by the State. — (a) The State shall contribute annually an amount equal to the sum of the 'normal contribution' and the 'accrued liability contribution'.

(b) The normal contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total compensation of the members for such period. The normal contribution rate shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the Retirement System, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, in excess of the part thereof provided by the members' contributions, to (ii) the total annual compensation of the members of the Retirement System.

(c) The accrued liability contribution for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members for such period. The accrued liability contribution rate shall be determined as the percentage represented by the ratio of (i) the level annual contribution necessary to amortize the unfunded accrued liability over a period of 40 years, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, to (ii) the total annual compensation of the members of the Retirement System.

(d) The unfunded accrued liability as of any date shall be determined, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, as the excess of (i) the then present value of the benefits to be provided under the Retirement System in the future over (ii) the sum of the assets of the Retirement System then currently on hand in the annuity savings fund and the pension accumulation fund, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the State.

(e) The normal contribution rate and the accrued liability contribution rate shall be determined after each annual valuation of the Retirement System and shall remain in effect until a new valuation is made.

(f) The annual contributions by the State for any year shall be at least sufficient, when combined with the amount held in the pension accumulation fund at the start of the year, to provide the retirement allowances and other benefits payable out of the fund during the year then current.

"§ 135-120. Transfer of members to another system. — (a) Any member whose service as a judge is terminated other than by retirement or death and, who, while still a member of this Retirement System becomes a member of either the Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System, may elect to retain his membership in this Retirement System by not withdrawing his accumulated contributions hereunder. Any such member shall retain all the rights, credits and benefits obtaining to him under this Retirement System at the time of such termination of service while he is a member of such other system and does not withdraw his contributions hereunder.

(b) Any member who becomes eligible for benefits under more than one system may file application therefor with each retirement system to the end that each retirement system shall pay appropriate benefits without transfer of funds between the systems.

(c) The Board of Trustees shall effect such rules as it may deem necessary to administer the provisions of the preceding subsections of this section and to prevent any duplication of service credits or benefits that might otherwise occur.

"§ 135-121. Return to membership of retired former member. — (a) In the event that a retired former member should at any time return to service as a justice or judge, his retirement

allowance shall thereupon cease and he shall be restored as a member of the Retirement System.

(b) In the computation of the amount of any benefits to which he may subsequently become entitled under any of the provisions of this Article, his creditable service shall be taken as the sum of the creditable service rendered by him prior to the date of his previous retirement plus the period of membership service rendered by him subsequent to his restoration to membership, except as otherwise provided in G.S. 135-110(c)."

Sec. 2. Article 1 of General Statutes Chapter 135 is amended as follows:

(a) The first sentence of G.S. 135-1(10) is amended to read: "'Employee' shall mean all fulltime 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 Uniform Judicial Retirement System, any member or officer of the General Assembly or any part-time or temporary employee."

(b) A new section, G.S. 135-28.1, is inserted to read as follows:

"§ 135-28.1. Transfer of members to employment covered by the Uniform Judicial Retirement System. — (a) Any member whose service as a teacher or State employee is terminated other than by retirement or death and, who, while still a member of this Retirement System, becomes a judge participating in the Uniform Judicial Retirement System, may elect to retain his membership in this Retirement System by not withdrawing his accumulated contributions hereunder. Any such member shall retain all the rights, credits and benefits obtaining to him under this Retirement System at the time of such termination of service hereunder while he is a member of the other system and does not withdraw his contributions hereunder.

(b) The provisions of the preceding subsection to the contrary notwithstanding, with respect to each judge or former judge of the District Court Division of the General Court of Justice who was a member of this Retirement System immediately prior to January 1, 1974, and who becomes a member of the Uniform Judicial Retirement System on or after January 1, 1974, upon his commencement of membership in the other system there shall be paid in a lump sum to his account in the annuity savings fund of the other system the amount of his accumulated contributions under this System that are attributable to contributions made by him hereunder while a judge of said District Court Division. Upon such payment, the member's accumulated contributions hereunder shall be reduced by the amount of such payment and his period of creditable membership service shall be reduced by the period of service during which such repaid contributions were originally made.

Any member for whom the payment of his accumulated contributions as herein provided reduces the balance of his account in the annuity savings fund to zero and cancels his entire period of creditable service shall no longer be a member of this Retirement System.

In the case of any member who retains his membership in this Retirement System after the payment hereinabove provided and who subsequently becomes eligible for retirement benefits under this Retirement System or whose death results in benefit payments to another beneficiary, the average final compensation used in the computation of the amount of any such benefits shall be computed as of the date of commencement of his membership in the other system on the same basis as if his retirement or death had occurred as of such date of commencement. Moreover, for the sole purpose of increasing his creditable service hereunder in order to meet any applicable service requirements for benefits hereunder, any such member shall be granted membership service credits under this Retirement System on account of (i) the period of membership service cancelled under the first paragraph of this subsection and (ii) the period of his membership in the other system so long as he remains a member hereunder and, if he is a member in service under the other system, he shall be deemed to be a member in service under this Retirement System if so required for any benefit hereunder.

(c) Any member who becomes eligible for benefits under both this Retirement System and the Uniform Judicial Retirement System may file application therefor with each retirement system to the end that each retirement system shall pay appropriate benefits without transfer of funds between the systems except as otherwise provided in subsection (b) above.

(d) The Board of Trustees shall effect such rules as it may deem necessary to administer the provisions of the preceding subsections of this section and to prevent any duplication of service credits or benefits that might otherwise occur."

Sec. 3. G.S. 7A-39.3(a) is amended by inserting, in line 2, before the word "are", the words "or the Uniform Judicial Retirement Act".

Sec. 4. G.S. 7A-52(a) is amended by inserting, in line 1, before the word "are", the words "or the Uniform Judicial Retirement Act".

Sec. 5. Chapter 7A of the General Statutes is hereby amended by inserting in Article 6 thereof a new section, G.S. 7A-39.12, to read as follows:

"§ **7A-39.12. Applicability of G.S. 7A-39.2 and 7A-39.11** — The provisions of G.S. 7A-39.2 and G.S. 7A-39.11 shall apply only to justices and judges who entered into office prior to January 1, 1974. The extent of such application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act)."

Sec. 6. Chapter 7A of the General Statutes is hereby amended by inserting in Article 8 thereof a new section, G.S. 7A-56 to read as follows:

"§ **7A-56. Applicability of G.S. 7A-51 and 7A-55.** — The provisions of G.S. 7A-51 and G.S. 7A-55 shall apply only to judges (and any Administrative Officer of the Courts) who entered office prior to January 1, 1974. The extent of an application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act)."

Sec. 7. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.