Article 2.

Coverage of Governmental Employees under Title II of the Social Security Act.

§ 135-19. Declaration of policy.

In order to extend to employees of the State and its political subdivisions and of the instrumentalities of either, and to the dependents and survivors of such employees, the basic protection accorded to others by the Old Age and Survivors Insurance System embodied in the Social Security Act, it is hereby declared to be the policy of the legislature, subject to the limitation of this Article, that such steps be taken as to provide such protection to employees of the State and local governments on as broad a basis as is permitted under applicable federal law.

It is also the policy of the legislature that the protection afforded employees in positions covered by a retirement system on the date an agreement under this Article is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof. (1951, c. 562, s. 3; 1955, c. 1154, s. 1.)

§ 135-20. Definitions.

For the purposes of this Article:

(1) The term "employee" includes an officer of the State, or one of its political subdivisions or instrumentalities.

(2) The term "employment" means any service performed by an employee in the employ of the State, or any political subdivision thereof, for such employer, except

a. Service which in the absence of an agreement entered into under this Article would constitute "employment" as defined in the Social Security Act; or

b. Service which under the Social Security Act may not be included in an agreement between the State and the Secretary of Health, Education and Welfare entered into under this Article.

Service which under the Social Security Act may be included in an agreement only upon certification by the Governor in accordance with section 218(d)(3) of that act shall be included in the term "employment" if and when the Governor issues, with respect to such service, a certificate to the Secretary of Health, Education and Welfare pursuant to G.S. 135-29.

(3) The term "Federal Insurance Contributions Act" means Subchapter A of Chapter 9 of the Federal Internal Revenue Code of 1939 and Subchapters A and B of Chapter 21 of the Federal Internal Revenue Code of 1954, as such Codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such Code of 1939 and section 3101 of such Code of 1954.

(4) The term "political subdivision" includes an instrumentality of a state, of one or more of its political subdivisions, or of a state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision.

(5) The term "Secretary of Health, Education and Welfare" includes any individual to whom the Secretary of Health, Education and Welfare has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the Federal Security Administrator and any individual to whom such Administrator has delegated any such function.

(6) The term "Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended.

(7) The term "State agency" means the director of the Teachers' and State Employees' Retirement System.

(8) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were paid for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act. (1951, c. 562, s. 3; 1955, c. 1154, ss. 2-4, 12; 1959, c. 1020; 1965, c. 780, s. 1; 1973, c. 108, s. 84.)

§ 135-21. Federal-State agreement; interstate instrumentalities.

(a) The State agency, with the approval of the Governor, is hereby authorized to enter on behalf of the State into an agreement with the Secretary of Health, Education and Welfare, consistent with the terms and provisions of this Article, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance System to employees of the State or any political subdivision thereof with respect to services specified in such agreement which constitute "employment" as defined in G.S. 135-20. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the State agency and Secretary of Health, Education and Welfare shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that –

(1) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act.

(2) The State will pay to the Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages (as defined in G.S. 135-20), equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act.

(3) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but shall in no event cover any such services performed prior to January 1, 1951.

(4) All services which constitute employment as defined in G.S. 135-20 and are performed in the employ of the State by employees of the State, shall be covered by the agreement.

(5) All services which constitute employment as defined in G.S. 135-20, are performed in the employ of a political subdivision of the State, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the State agency under G.S. 135-23, shall be covered by the agreement.

(6) As modified, the agreement shall include all services described in either subdivision (4) or subdivision (5) of this subsection and performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of a retirement system; and

(7) As modified, the agreement shall include all services described in either subdivision (4) or subdivision (5) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the Governor has issued a certificate to the Secretary of Health, Education and Welfare pursuant to G.S. 135-29.

(b) Any instrumentality jointly created by this State and any other state or states is hereby authorized, upon the granting of like authority by such other state or states,

(1) To enter into an agreement with the Secretary of Health, Education and Welfare whereby the benefits of the Federal Old Age and Survivors Insurance System shall be extended to employees of such instrumentality,

(2) To require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under G.S. 135-22(a) if they were covered by an agreement made pursuant to subsection (a) of this section, and

(3) To make payments to the Secretary of the Treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements.

Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (a) and other provisions of this Article.

(c) Pursuant to section 218(d)(6) of the Social Security Act, the Teachers' and State Employees' Retirement System of North Carolina as established by Article 1 of Chapter 135 of the General Statutes, Volume 17, as amended and as the same may be hereafter amended, shall for the purposes of this Article, be deemed to constitute a single retirement system; and, the North Carolina Local Governmental Employees' Retirement System as established by Article 3 of Chapter 128 of the General Statutes, Volume 16, as amended and as the same may be hereafter amended, shall be deemed to constitute a single retirement system with respect to each political subdivision having positions covered thereby. (1951, c. 562, s. 3; 1953, c. 52; 1955, c. 1154, ss. 5-7, 12.)

§ 135-22. Contributions by State employees.

(a) Every employee of the State whose services are covered by an agreement entered into under G.S. 135-21 shall be required to pay for the period of such coverage, into the contribution

fund established by G.S. 135-24, contributions, with respect to wages (as defined in G.S. 135-20), equal to the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employee's retention in the service of the State, or his entry upon such service, after the enactment of this Article.

(b) The contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

(c) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the State agency shall prescribe. (1951, c. 562, s. 3; 1955, c. 1154, s. 8.)

§ 135-23. Plans for coverage of employees of political subdivisions.

(a) Each political subdivision of the State is hereby authorized to submit for approval by the State agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivisions. Each such plan and any amendment thereof shall be approved by the State agency if it finds that such plan or such plan as amended, is in conformity with such requirements as are provided in regulations of the State agency, except that no such plan shall be approved unless –

(1) It is in conformity with the requirements of the Social Security Act and with the agreement entered into under G.S. 135-21.

(2) It provides that all services which constitute employment as defined in G.S. 135-20 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan, except that it may exclude services performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable.

(3) It specifies the source or sources from which the funds necessary to make the payments required by subdivision (1) of subsection (c) and by subsection (d) are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose.

(4) It provides for such methods of administration of the plan by the political subdivision as are found by the State agency to be necessary for the proper and efficient administration of the plan.

(5) It provides that the political subdivision will make such reports, in such form and containing such information, as the State agency may from time to time require, and comply with such provisions as the State agency or the Secretary of Health, Education and Welfare may from time to time find necessary to assure the correctness and verification of such reports.

(6) It authorizes the State agency to terminate the plan in its entirety, in the discretion of the State agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the State agency and may be consistent with the provisions of the Social Security Act.

(b) The State agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection (a), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(c) (1) Each political subdivision as to which a plan has been approved under this section shall pay into the contribution fund, with respect to wages (as defined in G.S. 135-20), at such time or times as the State agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the State agency under G.S. 135-21.

(2) Each political subdivision required to make payments under subdivision (1) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this Article, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in G.S. 135-20), not exceeding the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision or instrumentality under subdivision (1) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

(d) Delinquent payments due under subdivision (1) of subsection (c), may, with interest at the rate of six per centum (6%) per annum, be recovered by action in the Superior Court of Wake County against the political subdivision liable therefor or may, at the request of the State agency, be deducted from any other moneys payable to such subdivision by any department or agency of the State. (1951, c. 562, s. 3; 1955, c. 1154, ss. 9, 10, 12.)

§ 135-24. Contribution fund.

(a) There is hereby established a special fund to be known as the contribution fund. Such fund shall consist of and there shall be deposited in such fund:

(1) All contributions, interest, and penalties collected under G.S. 135-22 and 135-23;

(2) All moneys appropriated thereto under this Article;

(3) Any property or securities and earnings thereof acquired through the use of moneys belonging to the fund;

(4) Interest earned upon any moneys in the fund; and

(5) All sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source.

All moneys in the fund shall be mingled and undivided. Subject to the provisions of this Article, the State agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this Article.

(b) The contribution fund shall be established and held separate and apart from any other funds or moneys of the State and shall be used and administered exclusively for the purpose of this Article. Withdrawals from such fund shall be made for, and solely for

(1) Payment of amounts required to be paid to the Secretary of the Treasury pursuant to an agreement entered into under G.S. 135-21;

(2) Payment of refunds provided for in G.S. 135-22(c); and

(3) Refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

(c) From the contribution fund the custodian of the fund shall pay to the Secretary of the Treasury such amounts and at such time or times as may be directed by the State agency in accordance with any agreement entered into under G.S. 135-21 and the Social Security Act.

(d) The Treasurer of the State shall be ex officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this Article and the directions of the State agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the State agency may prescribe pursuant thereto.

(e) (1) There are hereby authorized to be appropriated biennially to the contribution fund, in addition to the contributions collected and paid into the contribution fund under G.S. 135-22 and 135-23, to be available for the purposes of G.S. 135-24(b) and (c) until expended, such additional sums as are found to be necessary in order to make the payments to the Secretary of the Treasury which the State is obligated to make pursuant to an agreement entered into under G.S. 135-21.

(2) The State agency shall submit to each regular session of the State legislature, at least 90 days in advance of the beginning of such session, an estimate of the amounts authorized to be appropriated to the contribution fund by subdivision (1) of this subsection for the next appropriation period.

(f) The State agency shall have the authority to promulgate rules and regulations under which the State agency may make a reasonable charge or assessment against any political subdivision whose employees shall be included in any coverage agreement under any plan of coverage of employees as provided by the provisions of this Article. Such charge or assessment shall be determined by the State agency and shall be apportioned among the various political subdivisions of government in a ratable or fair manner, and the funds derived from such charge or assessment shall be used exclusively by the State agency to defray the cost and expense of administering the provisions of this Article. In case of refusal to pay such charge or assessment on the part of any political subdivision as defined in this Article, or in case such charge or assessment remains unpaid for a period of 30 days, the State agency may maintain a suit in the Superior Court of Wake County for the recovery of such charge or assessment. The Superior Court of Wake County is hereby vested with jurisdiction over all such suits or actions. Only such amount shall be assessed against such political subdivision as is necessary to pay its share of the expense of providing supplies, necessary employees and clerks, records and other proper expenses necessary for the administration of this Article by the State agency, including compensation of the State agency for the agency's services. The funds accumulated and derived from such assessments and charges shall be deposited by the State agency in some safe and reliable depository chosen by the State agency, and the State agency shall issue such checks or vouchers as may be necessary to defray the above-mentioned expenses of administration with the right of the representative of any political subdivision to inspect the books and records and inquire into the amounts necessary for such administration. (1951, c. 562, s. 3; 1963, c. 687, s. 6.)

§ 135-25. Rules and regulations.

The State agency shall make and publish such rules and regulations, not inconsistent with the provisions of this Article, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this Article. (1951, c. 562, s. 3.)

§ 135-26. Studies and reports.

The State agency shall make studies concerning the problem of old age and survivors insurance protection for employees of the State and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this Article and shall submit a report to the legislature at the beginning of each regular session, covering the administration and operation of this Article during the preceding biennium, including such recommendations for amendments to this Article as it considers proper. (1951, c. 562, s. 3.)

§ 135-27. Transfers from State to certain association service.

(a) Any member whose service as a teacher or State employee is terminated because of acceptance of a position prior to July 1, 1983, with the North Carolina Education Association, the North Carolina State Employees' Association, North Carolina State Firefighters' Association, the North Carolina State Highway Employees Association, North Carolina Teachers' Association and the State Employees' Credit Union, alumni associations of state-supported universities and colleges, local professional associations of teachers and State employees as defined by the Board of Trustees, and North Carolina State School Boards Association may elect to leave his total accumulated contributions in this Retirement System during the period he is in such association employment, by filing with the Board of Trustees at the time of such termination the form provided by it for that purpose.

(b) Any member who files such an election shall remain a member of the Retirement System during the time he is in such association employment and does not withdraw his contributions. Such a member shall be entitled to all the rights and benefits of the Retirement System as though remaining in State service on the basis of the funds accumulated for his credit at the time of such transfer plus any additional accruals on account of future contributions made as hereinafter provided. Such former State employee may restore any such account and pay into the annuity savings fund before July 1, 1960, such amounts as would have been paid after transfer to such service, provided that the association makes contributions to the Retirement System on behalf of such former members in accordance with subsection (c) of this section.

(c) Under such rules as the Board of Trustees shall adopt, the association to which the member has been transferred may agree to contribute to the Retirement System on behalf of such member such current service contributions as would have been made by his employer had he remained in State service with actual compensation equal to the remuneration received from such association; provided the member continues to contribute to the Retirement System. Any period of such association employment on account of which contributions are made by both the association and the member as herein provided shall be credited as membership service under the Retirement System.

(d) The governing board of any association or organization listed in subsection (a), in its discretion, may elect on or before July 1, 1983, by an appropriate resolution of said board, to cause the employees of such association or organization so employed prior to July 1, 1983, to become members of the Teachers' and State Employees' Retirement System. Such Retirement System

coverage shall be conditioned on such association's or organization's paying all of the employer's contributions or matching funds from funds of the association or organization and on such board's collecting from its employees the employees' contributions at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Retroactive coverage of the employees of any such association or organization may also be effected to the extent that such board requests; provided, the association or organization shall pay all of the employer's contributions or matching funds necessary for such purposes; and, provided further, such association or organization shall collect from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System shall determine, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds. The provisions of this subsection shall be fully applicable to the North Carolina Symphony Society, Inc.

(e) Notwithstanding the foregoing, employees of the State Employees' Credit Union who are in service and members of the Retirement System on June 30, 1983, shall, on or before October 1, 1983, make an irrevocable election to do one of the following:

(1) Continue contributing membership service under the same conditions and requirements as are otherwise provided, and have the rights of a member to all benefits and a retirement allowance; or

(2) Receive a return of accumulated contributions with cessation of contributing membership service, under G.S. 135-5(f) and in any event with regular interest regardless of membership service; or

(3) Terminate contributing membership service and be entitled alternatively to the benefits and allowances provided under G.S. 135-3(a)(8) or G.S. 135-5(a).

(f) Notwithstanding the foregoing, employees of the State Employees Association of North Carolina, the employees of the North Carolina Association of Educators, and the employees of the North Carolina School Boards Association who are in service and members of the Retirement System on June 30, 1985, shall, on or before October 1, 1985, make an irrevocable election to exercise one of the three options provided in G.S. 135-27(e). (1953, c. 1050, s. 1; 1959, c. 513, s. 5; 1961, c. 516, s. 5; 1967, c. 720, s. 14; 1969, cc. 540, 847, 1227; 1983, c. 412, ss. 4-6; c. 782; 1985, c. 757, s. 200; 2008-194, s. 6(a); 2012-120, s. 1(b); 2016-51, s. 6; 2025-19, s. 5.1(f).)

§ 135-28. Transfer of members to employment covered by the North Carolina Local Governmental Employees' Retirement System.

(a) Any member whose services as a teacher or State employee are terminated for any reason other than retirement or death, who, while his account remains active, becomes employed by an employer participating in the North Carolina Local Governmental Employees' Retirement System or an employer which brings its employees into participation in said System while his account is active, may elect to leave his total accumulated contributions in the Teachers' and State Employees' Retirement System during the period he is in the employment of such employer, or his account remains active in the local system. This subsection shall be effective retroactively as well as prospectively.

(b) Any such member shall retain all the rights, credits and benefits obtaining to him under this Retirement System at the time of such transfer while he is a member of the local system and does not withdraw his contributions hereunder and in addition, he shall be granted membership service credits under this Retirement System on account of the period of his membership in the

local system for the purpose of increasing his years of creditable service hereunder in order to meet any service requirements of any retirement benefit under this Retirement System and, if he is a member in service under the local system, he shall be deemed to be a member in service under this Retirement System if so required by such benefit: Provided, however, that in lieu of transfer of funds from one retirement system to another, such member who is eligible for retirement benefits shall 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) Any member who became or becomes employed by an employer of the North Carolina Local Governmental Employees' Retirement System as provided in (a) above shall be entitled to waive the provisions of (b) above and to transfer to the local system his credits for membership and prior service in this System provided such member shall request this System to transfer his accumulated contributions, interest and service credits to the local system. If such request is made, in addition to the member's accumulated contributions, interest and service credits, there shall be transferred to the local system the amount of reserve held in this System as a result of previous employer contributions on behalf of the transferring employee. (1953, c. 1050, s. 2; 1961, c. 516, s. 6; 1965, c. 780, s. 1; 1971, c. 117, ss. 16, 18; 1973, c. 241, s. 12.)

§ 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.

(e) When any judge of a district court division of the General Court of Justice shall have made application for disability retirement prior to January 1, 1974, while a member of this Retirement System to become effective after January 1, 1974, and such judge died before January 1, 1974, and there was filed with the application for disability retirement a statement by a physician that such judge was permanently and totally disabled, such person shall be deemed to have complied with all provisions of this Retirement System as of the date of application for disability retirement and no action of the medical board shall be necessary. He shall be presumed to have chosen Option 2 as to retirement benefits and survivor's benefits shall commence immediately and shall also be paid retroactively to the first day of the calendar month following such judge's death.

(f) Notwithstanding the provisions of subsections (a), (b), (c), (d), and (e) of this section, the accumulated contributions and creditable service of any member whose service as a teacher or employee has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Teachers' and State Employees' Retirement System as a result of previous contributions by the employer on behalf of the transferring member. (1973, c. 640, s. 2; c. 1221; 1999-237, s. 28.24(b).)

§ 135-29. Referenda and certification.

(a) With respect to employees of the State and any other individuals covered by Article 1 of Chapter 135 of the General Statutes, Volume 17, as amended and as may be hereafter amended, the Governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision he shall authorize a referendum upon request of the governing body of such vision covered by Article 3 of Chapter 128 of the General Statutes, Volume 16, as amended and as the same may be hereafter amended, or by some other retirement system established either by the State or by the political subdivision; and in either case the referendum shall be conducted, and the Governor shall designate an agency or individual to supervise its conduct, in accordance with the

requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the State or by a political subdivision thereof should be excluded from or included under an agreement under this Article. The notice of referendum required by section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or the individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this Article.

(b) Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act have been met, the Governor or such State official as may be designated by him, shall so certify to the Secretary of Health, Education and Welfare. (1955, c. 1154, s. 11; 1961, c. 516, s. 8.)

§ 135-30. State employees members of Law-Enforcement Officers' Benefit and Retirement Fund.

The federal-state agreement provided in G.S. 135-21 shall be revised and extended to provide that, effective on, or retroactively as of, such date as may be fixed by the Board of Commissioners of the Law-Enforcement Officers' Benefit and Retirement Fund, all or some of the members of said fund who are employees of the State of North Carolina or any of its agencies, shall be covered by the Social Security Act, dependent upon a referendum or referendums held pursuant to federal laws and regulations, at the request of said board, with the approval of the Governor: Provided, that such action shall be subject to the conditions and terms set forth in such agreement and subject to all applicable provisions of Article 2 of Chapter 135 of the General Statutes not inconsistent herewith: Provided, however, that the effecting of social security coverage shall not cause to be reduced or lowered the amount of the contributions to be made to the Law-Enforcement Officers' Benefit and Retirement Fund by any State employee who is a member thereof nor the amount to be contributed by the State to said fund with respect to each State employee member; provided, further, from and after the date the above-described employees become subject to the Social Security Act, there shall be deducted from each such employee's salary for each and every payroll period such sum as may be necessary to pay the amount of contributions of taxes required on his account with respect to social security coverage, and the State, or the appropriate State agency, as an employer, shall pay the amount of contributions or taxes with respect to such person, as may be necessary on his account to effect the above-described social security coverage. (1959, c. 618, s. 1.)

§ 135-31. Split referendums.

The provisions of this Article shall be construed as authorization for the State or political subdivisions or instrumentalities of government which have not heretofore secured social security coverage, and which are otherwise authorized to secure such coverage, to hold any type of referendum with respect thereto which federal law now or hereafter may authorize, and not be restricted to the types of referendums authorized by federal law at the time of the original enactment of this Article. (1959, c. 618, s. 1.)