§ 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of creditable membership service shall be reduced by the period of service during which such repaid contributions were originally made.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).)