

Throughout this section, the references to a system "operated on an actuarial basis, with contributions being made during the active service of members which are computed to be sufficient to provide the reserves needed to cover the benefits payable on their account" are deleted as unnecessary in light of § 37-201, which limits the scope of this title to transfers between systems "operated on an actuarial basis".

In subsection (a) of this section, the phrase "transfer service credit attained as a result of that membership" is substituted for the former phrase "transfer that membership" for consistency and accuracy.

Also in subsection (a) of this section, in conformance with long-standing administrative practice, the reference to the condition that the new employment or office be accepted "without incurring a break in employment" is added to state expressly that which formerly only was implied - *i.e.*, that a transfer is allowed only if there is no break in employment. This condition for transfer was implied under former Art. 73B, § 1-401(a), which provided that "a member ... may transfer that membership ... upon accepting office or employment which makes it possible or mandatory for the member to participate in the other system and if acceptance of the office or employment would make it impossible for the member to continue as a contributing member of the retirement system from which the member transfers". This condition was also implied under former Art. 73B, § 1-402(a)(3), which allowed transfers for certain former members only if "[a] break in service occurred that prevents the former member from transferring membership under § 1-401(a) ...".

In subsections (a)(2) and (b)(4)(ii) of this section, the requirement that the new employment "does not allow the member to continue to accrue benefits in the previous system" is substituted for the former requirement that it is "impossible for the member to continue as a contributing member" to clearly and accurately describe active membership in either a contributory or noncontributory system. The former reference to a "contributing member" was meaningful only in the context of a contributory system and did not describe active membership in a noncontributory system.

In subsection (b)(3) of this section, the phrase "break in employment" is substituted for the former phrase "break in service" to avoid confusion with the term "break in service" that is defined in Titles 23, 26, and 28 of this article.

The State Personnel and Pensions Article Review Committee notes, for the consideration of the General Assembly, that although this section, consistent with former law, requires that a transfer of service credit is allowed if the new employment or office "does not allow the member to continue to accrue benefits in the previous system", it is the termination of the former employment rather than the acceptance of the new employment that will actually prevent membership in the previous system.