§ 43. Transfer of members between systems. a. Notwithstanding any other provision of law providing for transfers, any member of any retirement system maintained by the state or a municipality thereof, operating on a sound financial basis and subject to the supervision of the department of financial services of this state may transfer his membership pursuant to this section to the New York state and local employees' retirement system, the New York city board of education employees' retirement system, the New York state teachers' retirement system, the New York city teachers' retirement system or to the New York city employees' retirement system. Any member of the New York state and local employees' retirement system may transfer his membership to any retirement system, other than the hospital retirement system, which is operating on a sound basis and is subject to the supervision of the department of financial services of this state. Any such transfer may be effectuated only if the member has accepted a position in another branch of the state or municipal service which would make it:

1. Impossible for him to continue in the retirement system of which he has been a member, and

2. Possible for him to participate in another such system.

Notwithstanding the foregoing provisions of this subdivision, any employee who would be eligible to avail himself or herself of the provisions of this section but for being on leave of absence status from a prior employment while in his or her present employment, shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section.

Any member of the New York state and local employees' retirement system, however, who was an employee of any city agency at the time service with such agency was legislated to be city service may transfer his membership to the retirement system of such city.

b. In order to effect such a transfer, a member must give notice to the administrative head of the retirement system of which he or she is a member, prior to his or her withdrawal therefrom, of his or her

intention to enter such other retirement system. A person so transferring from one retirement system to another shall be deemed to have been a member of the system to which he or she has transferred during the entire period of membership service credited to him or her in the system from which he or she has transferred. Such transferee, however, shall not receive more than three per cent interest on his or her contributions and accumulated contributions unless he or she has continuously been a member in either the system from which or to which he or she is transferring since a date prior to July first, nineteen hundred forty-three. This shall not be construed to prevent a change in the interest rate to such member if the interest rate payable to other members of the system to which he or she has transferred is changed. Any member who heretofore transferred from one retirement system to another shall, commencing with the effective date of chapter nine hundred three of the laws of nineteen hundred fifty-seven, be entitled to the same rights, privileges and benefits, and shall be subject to the same obligations, as a transferee who thereafter transfers. He or she shall receive no credit for prior service, except as hereinafter provided. He or she shall be permitted to deposit in the second retirement system the total amount of his contributions withdrawn from the first retirement system.

c. Upon the request for a transfer of credit, the reserve on such member's benefits, computed as though he had not discontinued membership, shall be determined by the actuary of the first system in the following manner:

1. The total present value of all benefits allowable under the retirement system as the result of contributions made or to be made by his employer shall be computed.

2. From such total present value there shall be deducted the present value of the future contributions which would be payable by his employer on such member's account had he become a member of the retirement system, subsequent to its establishment, at the age at which he originally entered the service of his employer. The result so obtained shall be considered as the reserve on his account in the first

retirement system.

d. Such reserve shall be transferred from the appropriate fund or funds of the first system to the appropriate fund or funds of the second system. Such member, thereupon, shall be given such status and credited with such service in the second retirement system as he was allowed in the first retirement system. Such contributor, notwithstanding any other provision of law, shall on retirement be entitled to a pension based on salary earned during member service in both retirement systems together, pursuant to the statutory requirements of the second retirement system.

e. The provisions of former subdivision e of this section, as originally enacted by chapter four hundred eighty-three of the laws of nineteen hundred forty-five and as codified in such former subdivision e by chapter eight hundred forty-one of the laws of nineteen hundred forty-seven, shall apply only to memberships transferred prior to July first, nineteen hundred forty-nine. Section one hundred seventeen of this article shall apply to the provisions of this subdivision insofar as such provisions relate to such memberships.

f. 1. A "New York city member", as defined in subdivision twenty of section two hundred forty-three of the military law, who shall transfer to another retirement system pursuant to this section shall be given credit, upon such transfer, for the period of military duty to which such member would have been entitled pursuant to such subdivision twenty if he had remained, until the time of death or retirement, in the retirement system from which he shall so transfer. The amount of reserves to be transferred under this section for such credit shall be computed in accordance with this section, shall include pension reserves for such military duty, and shall be credited by the retirement system to which the member shall transfer in accordance with the provisions of such system governing credit for service in world war II, and the city of New York, or the authority, by which such member is employed immediately prior to the transfer, shall pay to the retirement system the amount of the reserve to be transferred on account of such military service.

2. Any retirement system from which a member shall transfer pursuant to this subdivision shall have the right to require reasonable proof of military service, pay status, and any other information relevant to eligibility for such transfer of credit for military duty.

3. The provisions of this subdivision f shall apply only to a "New York city member" who has rendered service as an officer or employee of the city of New York (or any agency thereof) or public corporation, the officers or employees of which are eligible for membership in a pension or retirement system maintained by such city, including performance of such military duty, for at least fifty per centum of the time between his commencement of such service and the date upon which he has attained or shall attain age fifty-five.

h. Notwithstanding any other provisions of the law, a former member of the New York state teachers' retirement system who holds membership in the New York city teachers' retirement system on the effective date of this act and who would have been entitled to transfer service credit to such latter retirement system pursuant to this section had his membership in the former retirement system not terminated, due to no negligence on the part of the member, may have his transfer rights under this section restored by depositing, within one year of the effective date of this act, in the former retirement system an amount equal to the contributions withdrawn from such system with regular interest thereon.

j. This subdivision shall apply only to individuals who, subsequent to vesting in a retirement system, transfer to a second retirement system whose governing laws require a greater number of years of credit for vesting than those of the first system, and who, upon such transfer, do not have the number of years of service credit that is ordinarily required to vest in such second retirement system.

1. Upon transfer, the number of years of service credit required for the transferred individual to attain vested rights in the second retirement system shall be the same as the number of years of service credit required, under applicable law, for vesting in the first retirement system.

2. In the event that an individual covered by this subdivision makes application to retire from such second system prior to attaining the amount of service credit that would otherwise be necessary to vest in such second retirement system, and such individual is otherwise eligible to retire from such second system, the application shall be granted, and benefits shall be calculated on the basis of the actual amount of service credit the individual has accrued at the time of retirement. Transferred service credit shall not be creditable under any plan in the second retirement system that it would not otherwise be creditable under.

k. Notwithstanding any other provision of this section, any member of the New York state and local employees' retirement system or the New York city teachers' retirement system who retired from service from either the New York city employees' retirement system or the New York city board of education retirement system as a member of the career pension plan maintained by such system and who, but for the fact that he or she retired, would be eligible for transfer and who has not, in fact, received a pension payment from such system shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section. In such event, the application for retirement shall be deemed to have been rescinded and the retirement system from which the service shall be transferred shall transfer the appropriate reserves as provided by this section, provided, however, that with respect to transfers pursuant to this subdivision which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, except for the purposes of providing the benefits, if any, of subdivision four of section five hundred twenty-two of the education law, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this subdivision with less than ten years of credited service with the transferring retirement system at the time the transfer is initiated. With respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand

twenty-three that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of the state to any other public retirement system of the state, excluding any transfers within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system. Notwithstanding the provision of this subdivision or any other provision of law, an individual who transfers pursuant to this subdivision shall not be required to render any minimum period of service following transfer in order to be eligible to receive the full benefit provided hereunder. Notwithstanding the foregoing, a retiree covered by either the career pension plan or the fifty-five-year-increased-service-fraction plan who has received a pension payment or payments from such system shall be eligible for the provisions of this subdivision upon payment, to the retirement system from which the pension payment or payments were made, of an amount equal to such pension payment or payments. After such payments and the pension reserve, in the case of a member who transfers in ten or more years of credited service, except when transferring within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system, are received, such person shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section.

l. Notwithstanding any other provision of law to the contrary, with respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, except for the purposes of providing the benefits, if any, of subdivision four of section five hundred twenty-two of the education law, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this section with less than ten years of credited service with the transferring retirement system at the time the transfer is initiated. With respect to transfers pursuant to this section which occur on or after the effective date of the chapter

of the laws of two thousand twenty-three that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of the state to any other public retirement system of the state, excluding any transfers within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system. For the purpose of giving the transferring member such status and crediting such service in the second retirement system as such member was allowed in the first retirement system in those cases to which this subdivision shall apply, the transfer shall be deemed complete upon receipt by the second retirement system of:

1. a statement from the first retirement system of the transferring member's date of membership in the first retirement system, tier status, service credited to such membership being transferred, and such other information as the second retirement system may require to effectuate the transfer;

2. such member's accumulated contributions from the first retirement system, if same had not been previously withdrawn, or notice from the first retirement system that such member had no accumulated contributions, or notice from the first retirement system that such member's accumulated contributions had been withdrawn and the amount thereof and, as applicable, receipt from such member of such member's accumulated contributions and interest; and

3. the pension reserve in the case of a member who transfers in ten or more years of credited service, except when transferring within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system.