§ 511. Disability retirement. 1. Retirement on account of disability shall be made under the following conditions: A member who has completed at least fifteen years of total state service or a member who is a present teacher and who has completed twenty years of service, the last ten of which were state service, may be retired on account of disability either upon the application of his employer or upon his own application or that of a person acting in his behalf, if the retirement board, after a medical examination of said member by a physician or physicians designated by said board shall determine upon the basis of a report submitted by said physician or physicians that the said member is physically or mentally incapacitated for the performance of duty, that he was incapacitated at the time he ceased teaching and that said member ought to be retired.

2. On retirement for disability, a member shall receive a superannuation retirement allowance if his state service is twenty-five or more years and he has attained age sixty or if his total service is thirty-five or more years; otherwise, he shall receive a disability retirement allowance which shall consist of:

a. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

b. A pension of one-fifth (1/5) of his final average salary, with the exception that in no case shall the rate of such pension exceed four-fifths (4/5) of the rate of pension to which he might have been entitled had retirement been deferred until the age of seventy as provided under paragraph b of subdivision one of section five hundred ten; and

c. If he be a present teacher, a further pension of one one-hundred fortieth (1/140) of his final average salary multiplied by the number of years of total service certified on his prior service certificate, and

d. If the member has contributed pursuant to paragraph c of subdivision three of section five hundred sixteen, a pension, in lieu of the pension provided under paragraph b of subdivision two of this

section, of nine-tenths (9/10) of one one-hundredth (1/100) of his final average salary multiplied by the number of years of total service not in excess of twenty-five years, but not less than twenty (20) per centum of his final average salary, plus nine-tenths (9/10) of one one-hundred twentieth (1/120) of his final average salary multiplied by the number of years of total service in excess of twenty-five years but not in excess of thirty-five years, nor in excess of the number of years for which credit is allowed under paragraph d of subdivision three of section five hundred sixteen.

3. On and after July first, nineteen hundred seventy, a member who has credit for ten years of full time state service, including at least two years of such service rendered subsequent to June thirtieth, nineteen hundred sixty-seven and subsequent to the date upon which he last joined the retirement system and who is under age fifty-five, and otherwise meets the requirements of subdivision one of this section, may be retired on account of disability by the filing of an application with the retirement board as required by subdivision one of this section. Upon such retirement, he shall receive, in lieu of the retirement allowance specified in subdivision two of this section and the pension for increased-take-home-pay otherwise authorized in this article, a disability retirement pension consisting of:

a. a pension of one-sixtieth of his final average salary multiplied by the number of his years of credited state service rendered after June thirtieth, nineteen hundred fifty-nine and

b. a pension of one-seventieth of his final average salary multiplied by the number of his years of credited state service rendered before July first, nineteen hundred fifty-nine and

c. a pension of one one-hundred twentieth of his final average salary multiplied by the number of his years of credited out-of-state service.

In no event shall the disability pension be less than one-sixtieth of the member's final average salary multiplied by the number of years of total service, not to exceed twenty, which would have been credited to

the member had he remained in service until age sixty; provided, however, that for members who are credited with service prior to July first, nineteen hundred fifty-nine, the minimum pension as so determined shall be reduced by one quarter of one per cent of final average salary multiplied by the number of his years of service prior to July first, nineteen hundred fifty-nine.

On retirement for disability, in addition to the pension hereinabove provided, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

On and after July first, nineteen hundred seventy-seven, a member who is age fifty-five or over and who otherwise meets the requirements of this subdivision, shall receive on retirement for disability the retirement allowance he would have received had he filed for a service retirement.

On or after October sixteenth, nineteen hundred ninety-two, the disability pension shall in no event be less than:

a. in the case of a member under age sixty, the greater of (i) one-sixtieth of the member's final average salary multiplied by the number of years of total service, which formula is to be used if the pension so computed exceeds one-third of the member's final average salary, or (ii) one-sixtieth of the member's final average salary multiplied by the number of years of total service, not to exceed twenty, which would have been credited to the member had he remained in service until age sixty; or

b. in the case of a member age sixty or over, one-sixtieth of the member's final average salary multiplied by the number of years of total service.

Notwithstanding anything to the contrary in this article, any member who shall receive a disability retirement allowance pursuant to this subdivision shall be required once each year or at such other interval

as the retirement board may determine to undergo a medical examination by a physician or physicians designated by the retirement board. Should any disability beneficiary refuse to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should refusal continue for one year all rights in and to his pension shall be forfeited.

In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only until July first, nineteen hundred seventy-four.

4. Once each year or at such other interval as the retirement board may determine, following the retirement of a teacher who joined the New York state teachers retirement system on or after July first, nineteen hundred sixty-one, on a disability allowance, or once each year during the first five years following the retirement of the teacher who joined the New York state teachers retirement system prior to July first, nineteen hundred sixty-one, on a disability allowance the retirement board may, and upon his application shall, require any disability beneficiary to undergo medical examination by a physician or physicians designated by the retirement board. Should any disability beneficiary refuse to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to his pension shall be forfeited.

5. Should the physician or physicians designated by the retirement board report and certify to the retirement board that such disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his final average salary, and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, when added to the amount earnable by him, together with his annuity shall equal the amount of his final average salary. Should his earning capacity be later changed, then the amount of his pension may be further altered; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which when added

to the amount earned by the beneficiary, together with his annuity equals the amount of his final average salary. A beneficiary restored to active service at a salary less than the final average salary or upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced pension. Notwithstanding any other provision of this article, the term "final average salary" as used in this subdivision four, shall mean either "final average salary" as defined by subdivision eleven of section five hundred one, or the maximum salary or compensation which the retired member currently would be receiving in the position from which he was last retired for disability, if he had not been so retired, whichever is greater, provided, however, that if the position from which he was so retired has been abolished, the retirement board, upon the basis of salary or compensation currently paid by the retired member's last employer to persons in similar or comparable position, shall determine, for the purposes of this subdivision four, the maximum amount of salary or compensation which such retired member currently would be receiving in such position.

6. Should a disability beneficiary be restored to active service at a salary as great as his final average salary, his retirement allowance shall cease, and he shall again become a member of the retirement system, and his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account as a part of his accumulated contributions in the latter fund, and he shall contribute to the said fund thereafter in the same manner and at the same rate as he paid prior to his disability. His prior service certificate on the basis of which his service was computed at the time of his retirement shall be renewed and shall again be in full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his service as a member subsequent to the period covered by his prior service certificate.

7. The retirement board shall adopt appropriate rules and regulations providing for the reimbursement of reasonable expenses actually incurred by a member in attending medical examinations by physicians designated by the retirement board pursuant to this section. After determining the

reasonableness thereof, the retirement board shall approve payment of such expenses from the expense fund.

8. a. Notwithstanding any other provision of law to the contrary, a member who has applied for disability retirement pursuant to this section, or, in the case of a member subject to article fifteen of the retirement and social security law, pursuant to section six hundred five of such law and has validly elected the applicable optional allowance specified in paragraph e of this subdivision and is otherwise eligible to retire for disability pursuant to the provisions of this section shall be entitled to the benefits of this subdivision in lieu of any pre-retirement death benefit which otherwise would have been payable, but for the operation of this subdivision. Such member shall be deemed to have elected the benefits of this subdivision unless the member shall have indicated in a manner prescribed by the retirement board that the member does not wish to avail himself of such benefits.

b. In the event such member dies, and such application for disability retirement has not become effective and has not been rejected, and it is determined by the retirement board, upon recommendation of the medical board, that the physical or mental incapacitation specified in such application was directly related to the cause of the member's death, such application shall be deemed approved by the retirement board, effective one day prior to the date of the member's death. In such event, the optional allowance elected by such member shall be effective and no pre-retirement death benefit shall be payable.

c. In the event no optional allowance specified in paragraph e of this subdivision was elected by the member, or it is determined by the retirement board, upon recommendation of the medical board, that the physical or mental incapacitation specified in such application was not directly related to the cause of the member's death, this subdivision shall not apply and the applicable pre-retirement death benefit, if any, shall be payable.

d. If a member satisfying the provisions of paragraph a of this subdivision is, at the time the member files an application for

disability retirement, eligible to retire for service under this article, the member may simultaneously apply for service retirement, provided the member indicates the application for disability retirement is without prejudice to the member's application for service retirement. Upon retirement for service, the member's application for disability retirement shall be deemed cancelled.

e. An eligible optional allowance for the purposes of this subdivision shall only include Option one and Option four pursuant to section five hundred thirteen of this article in the case of a member who has applied for disability retirement pursuant to this section, and the Alternative Option pursuant to subdivision a-one of section six hundred ten of the retirement and social security law in the case of a member who has applied for disability retirement pursuant to section six hundred five of such law, provided that in the case of Option four and the Alternative Option, the optional allowance elected by the member must provide only for the payment upon the member's death of a lump sum and such lump sum must be greater in amount than the amount of the death benefit, if any, which would have been paid but for the operation of this subdivision.

f. The retirement board is authorized to adopt such rules and regulations as it deems necessary to implement the provisions of this section.

9. a. Any law to the contrary notwithstanding, a member who satisfies the requirements of paragraph b of this subdivision and is otherwise eligible (disregarding any service requirement) to retire for disability pursuant to this section or section five hundred six or six hundred five of the retirement and social security law, as applicable, may elect to receive a benefit equal to the death benefit which would have been paid, had such member died on the member's last day on the payroll in full pay status, pursuant to section five hundred twelve of this article or section four hundred forty-eight, five hundred eight or six hundred six of the retirement and social security law, as applicable.

b. To be eligible for the benefit provided in paragraph a of this

subdivision, a member must have been determined by the system to have (i) a terminal illness resulting in a life expectancy of no more than twelve months, or (ii) a medical condition of a long continued and indefinite duration requiring extraordinary care or treatment regardless of life expectancy.

c. The benefit provided in paragraph a of this subdivision shall be in lieu of any disability benefit to which the member may otherwise be entitled. A member who is otherwise eligible to retire for disability must elect the benefit provided in paragraph a of this subdivision no later than the thirtieth day following the day on which (i) the system notifies the member that the member has been retired for disability, or (ii) the member is first eligible to commence receiving a disability retirement benefit, whichever is later. Such election, when made, shall be irrevocable.

d. Except as provided in this paragraph, a member electing the benefit provided in paragraph a of this subdivision shall for all purposes be deemed to have been retired for disability. Notwithstanding the foregoing, should a member who has elected the benefit provided in paragraph a of this subdivision thereafter be restored to active service and again become a member of the system,

(i) no death benefit shall be payable pursuant to section five hundred twelve of this article or section four hundred forty-eight, five hundred eight or six hundred six of the retirement and social security law, as applicable in the event of the member's subsequent death, and

(ii) unless such member shall have rendered five years of credited service since last becoming a member of the system, any retirement benefit to which such member may thereafter become entitled shall be reduced by the actuarial value of the benefit paid pursuant to paragraph a of this subdivision (less the actuarial value of any applicable post-retirement death benefit which would have been available, but for this paragraph).

e. The retirement board is authorized to adopt such rules and regulations as it may deem necessary to implement the provisions of this subdivision.