

certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his service as a member.

Article 88B - State Police

53.

(5) Upon the application of a member or of the head of his or her department, any member who has been totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty, without wilful negligence on his or her part, shall be retired by the board of trustees, if the medical board certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, [that the incapacity arose out of or was sustained in the course of the actual performance of duty without wilful negligence on the part of the member concerned,] and that the member should be retired. IN NO EVENT SHALL A MEMBER RECEIVE A DISABILITY ALLOWANCE FOR A DISABILITY INCURRED PRIOR TO ENROLLMENT, EXCEPT TO THE EXTENT THAT SUCH DISABILITY WAS AGGRAVATED IN THE ACTUAL PERFORMANCE OF DUTY. No beneficiary entitled to a special disability retirement allowance shall receive any allowance on account of ordinary disability.

(7) (a) Once each year [during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter], the board of trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of 50 to undergo a medical examination, the examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by the medical board. If any disability beneficiary who has not yet attained the age of 50 refuses to submit to the medical examination, his or her allowance may be discontinued until withdrawal of the refusal, and should the refusal continue for one year, all the rights in and to the pension may be revoked by the board of trustees.

(b) If the medical board reports and certifies to the board of trustees that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his or her retirement allowance and his or her average final compensation and if the board of trustees concurs in the report, then the amount of the pension shall be reduced to an amount which, together with his or her annuity and the amount earnable by him or her, shall equal the amount of his or her average final compensation. If the beneficiary's earning capacity is later changed, the amount of his or her pension may be further modified, provided that the new pension may not exceed the amount of the pension originally