

SENATE BILL 422

K4

8lr2387
CF HB 442

By: **Senator McFadden (Chair, Joint Committee on Pensions) and Senators Currie, Kasemeyer, Kramer, Munson, and Robey**

Introduced and read first time: January 31, 2008

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2008

CHAPTER _____

1 AN ACT concerning

2 **Deferred Retirement Option Program Participants – Application of Line of**
3 **Duty Disability Benefits**

4 FOR the purpose of limiting the circumstances under which certain retirees of the
5 State Police Retirement System or the Law Enforcement Officers' Pension
6 System who are participating in the Deferred Retirement Option Program may
7 apply for certain disability retirements; providing for the application of this Act;
8 and generally relating to retirees receiving a line of duty disability retirement
9 benefit while participating in the Deferred Retirement Option Program.

10 BY repealing and reenacting, with amendments,
11 Article – State Personnel and Pensions
12 Section 24–401.1(k), 26–401.1(k), and 29–111
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2007 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – State Personnel and Pensions**

18 24–401.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (k) (1) A DROP member is eligible to apply for a special disability
 2 retirement allowance under § 29-111 of this article **IF AFTER THE DROP MEMBER**
 3 **~~IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY AS THE NATURAL~~**
 4 **~~AND PROXIMATE RESULT OF AN ACCIDENT THAT OCCURRED:~~**

5 **~~(I) IN THE ACTUAL PERFORMANCE OF DUTY AT A DEFINITE~~**
 6 **~~TIME AND PLACE WITHOUT WILLFUL NEGLIGENCE BY THE DROP MEMBER; AND~~**

7 **~~(H) AFTER THE DROP MEMBER COMMENCED~~**
 8 **~~PARTICIPATION IN THE DROP. COMMENCES PARTICIPATION IN THE DROP:~~**

9 **(I) THE MEMBER IS TOTALLY AND PERMANENTLY**
 10 **INCAPACITATED FOR DUTY ARISING OUT OF OR IN THE COURSE OF THE ACTUAL**
 11 **PERFORMANCE OF DUTY THAT OCCURS WHILE PARTICIPATING IN DROP, AND**
 12 **WITHOUT WILLFUL NEGLIGENCE OF THE MEMBER; AND**

13 **(II) THE MEDICAL BOARD CERTIFIES THAT:**

14 **1. THE MEMBER IS TOTALLY INCAPACITATED,**
 15 **EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF**
 16 **DUTY BY THE OCCURRENCE DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH;**

17 **2. THE INCAPACITY IS LIKELY TO BE PERMANENT;**
 18 **AND**

19 **3. THE MEMBER SHOULD BE RETIRED.**

20 (2) If the Board of Trustees grants a DROP member a special
 21 disability retirement allowance, the DROP member may elect to receive the special
 22 disability retirement allowance or continue to participate in the DROP.

23 (3) (i) If a DROP member elects to receive a special disability
 24 retirement allowance instead of continuing to participate in the DROP, the DROP
 25 member shall:

26 1. submit an application to the Board of Trustees, on the
 27 form the Board of Trustees provides, to receive payment of the amount accrued in the
 28 DROP in accordance with subsection (i) of this section;

29 2. execute a written waiver of any benefits to which the
 30 DROP member may be entitled under the DROP; and

31 3. submit an application to retire with a special
 32 disability retirement allowance, on the form the Board of Trustees provides, stating
 33 the effective date of the DROP member's retirement as a special disability retiree.

(ii) On acceptance of the application for payment and application to retire, the Board of Trustees shall commence payment of a special disability allowance to the DROP member as provided in § 29–111(c) of this article, except that the DROP member’s average final compensation shall be computed as of the effective date of the DROP member’s application for a special disability retirement allowance.

26–401.1.

(k) (1) A DROP member is eligible to apply for an accidental disability retirement allowance under § 29–109 of this article **IF AFTER THE DROP MEMBER IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT THAT OCCURRED;**

~~(I) IN THE ACTUAL PERFORMANCE OF DUTY AT A DEFINITE TIME AND PLACE WITHOUT WILLFUL NEGLIGENCE BY THE DROP MEMBER; AND~~

~~(II) AFTER THE DROP MEMBER COMMENCED PARTICIPATION IN THE DROP.~~ **COMMENCES PARTICIPATION IN THE DROP:**

(I) THE MEMBER IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY ARISING OUT OF OR IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY THAT OCCURS WHILE PARTICIPATING IN DROP, AND WITHOUT WILLFUL NEGLIGENCE OF THE MEMBER; AND

(II) THE MEDICAL BOARD CERTIFIES THAT:

1. THE MEMBER IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY BY THE OCCURRENCE DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH;

2. THE INCAPACITY IS LIKELY TO BE PERMANENT;
AND

3. THE MEMBER SHOULD BE RETIRED.

(2) If the Board of Trustees grants a DROP member an accidental disability retirement allowance, the DROP member may elect to receive the accidental disability retirement allowance or continue to participate in the DROP.

(3) (i) If a DROP member elects to receive a disability retirement allowance instead of continuing to participate in the DROP, the DROP member shall:

1. submit an application to the Board of Trustees, on the form the Board of Trustees provides, to receive payment of the amount accrued in the DROP in accordance with subsection (i) of this section;

1 2. execute a written waiver of any benefits to which the
2 DROP member may be entitled under the DROP; and

3 3. submit an application to retire with an accidental
4 disability retirement allowance, on the form the Board of Trustees provides, stating
5 the effective date of the DROP member's retirement as an accidental disability retiree.

6 (ii) On acceptance of the application for payment and
7 application to retire, the Board of Trustees shall commence payment of an accidental
8 disability allowance to the DROP member as provided in § 29-110 of this article,
9 except that the DROP member's average final compensation shall be computed as of
10 the effective date of the DROP member's application for an accidental disability
11 retirement allowance.

12 29-111.

13 (a) This section applies to the State Police Retirement System.

14 (b) [The] **EXCEPT AS PROVIDED IN § 24-401.1(K) OF THIS ARTICLE, THE**
15 Board of Trustees shall grant a special disability retirement allowance to a member if:

16 (1) the member is totally and permanently incapacitated for duty
17 arising out of or in the course of the actual performance of duty without willful
18 negligence by the member; and

19 (2) the medical board certifies that:

20 (i) the member is totally incapacitated, either mentally or
21 physically, for the further performance of duty;

22 (ii) the incapacity is likely to be permanent; and

23 (iii) the member should be retired.

24 (c) Except as provided in subsection (d) of this section, a special disability
25 retirement allowance equals the lesser of:

26 (1) the member's average final compensation; or

27 (2) the sum of:

28 (i) an annuity that is the actuarial equivalent of the member's
29 accumulated contributions at retirement; and

30 (ii) a pension equal to two-thirds of the member's average final
31 compensation.

1 (d) (1) This subsection applies to a member who is at least normal
2 retirement age.

3 (2) A special disability retirement allowance equals the greater of:

4 (i) a normal service retirement allowance; or

5 (ii) a special disability retirement allowance computed in
6 accordance with subsection (c) of this section.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
8 construed to apply only prospectively and may not be applied or interpreted to have
9 any effect on or application to any individual who on or before June 30, 2008,
10 commenced participation in the Deferred Retirement Option Program under either §
11 24-401.1 or § 26-401.1 of the State Personnel and Pensions Article.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.