

## CHAPTER 399

(Senate Bill 422)

AN ACT concerning

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

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

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

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

#### **Article – State Personnel and Pensions**

24–401.1.

(k) (1) A DROP member is eligible to apply for a special disability retirement allowance under § 29–111 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~~

~~(H) 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 a special disability retirement allowance, the DROP member may elect to receive the special disability retirement allowance or continue to participate in the DROP.

(3) (i) If a DROP member elects to receive a special 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;

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

3. submit an application to retire with a special disability retirement allowance, on the form the Board of Trustees provides, stating 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;

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

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

(ii) On acceptance of the application for payment and application to retire, the Board of Trustees shall commence payment of an accidental disability allowance to the DROP member as provided in § 29-110 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 an accidental disability retirement allowance.

29-111.

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

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

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

(2) the medical board certifies that:

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

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

(iii) the member should be retired.

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

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

(2) the sum of:

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

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

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

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

(i) a normal service retirement allowance; or

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

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

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

**Approved by the Governor, May 13, 2008.**