

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 406**

4 (By Senators Jenkins, McCabe and Cann)

5 _____
6 [Originating in the Committee on Finance;
7 reported March 22, 2013.]
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10
11 A BILL to amend and reenact §7-14D-2, §7-14D-7, §7-14D-9, §7-14D-16
12 and §7-14D-19 of the Code of West Virginia, 1931, as amended;
13 and to amend said code by adding thereto a new section,
14 designated §7-14D-7a, all relating to the Deputy Sheriff
15 Retirement System Act; adding a definition for the terms
16 "retire" and "retirement"; requiring Consolidated Public
17 Retirement Board to correct errors; correcting errors
18 resulting from underpayment or overpayment; and clarifying
19 that an estimation of benefits is provided prior to the
20 submission of a retirement application from a member.

21 *Be it enacted by the Legislature of West Virginia:*

22 That §7-14D-2, §7-14D-7, §7-14D-9, §7-14D-16 and §7-14D-19 of
23 the Code of West Virginia, 1931, as amended, be amended and
24 reenacted; and that said code be amended by adding thereto a new

1 section, designated §7-14D-7a, all to read as follows:

2 **ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

3 **§7-14D-2. Definitions.**

4 As used in this article, unless a federal law or regulation or
5 the context clearly requires a different meaning:

6 (a) "Accrued benefit" means on behalf of any member two and
7 one-quarter percent of the member's final average salary multiplied
8 by the member's years of credited service. A member's accrued
9 benefit may not exceed the limits of Section 415 of the Internal
10 Revenue Code and is subject to the provisions of section nine-a of
11 this article.

12 (b) "Accumulated contributions" means the sum of all amounts
13 deducted from the compensation of a member, or paid on his or her
14 behalf pursuant to article ten-c, chapter five of this code, either
15 pursuant to section seven of this article or section twenty-nine,
16 article ten, chapter five of this code as a result of covered
17 employment together with regular interest on the deducted amounts.

18 (c) "Active member" means a member who is active and
19 contributing to the plan.

20 (d) "Active military duty" means full-time active duty with
21 any branch of the armed forces of the United States, including
22 service with the National Guard or reserve military forces when the
23 member has been called to active full-time duty and has received no
24 compensation during the period of that duty from any board or

1 employer other than the armed forces.

2 (e) "Actuarial equivalent" means a benefit of equal value
3 computed upon the basis of the mortality table and interest rates
4 as set and adopted by the ~~retirement~~ board in accordance with the
5 provisions of this article: *Provided*, That when used in the context
6 of compliance with the federal maximum benefit requirements of
7 Section 415 of the Internal Revenue Code, "actuarial equivalent"
8 shall be computed using the mortality tables and interest rates
9 required to comply with those requirements.

10 (f) "Annual compensation" means the wages paid to the member
11 during covered employment within the meaning of Section 3401(a) of
12 the Internal Revenue Code, but determined without regard to any
13 rules that limit the remuneration included in wages based upon the
14 nature or location of employment or services performed during the
15 plan year plus amounts excluded under Section 414(h)(2) of the
16 Internal Revenue Code and less reimbursements or other expense
17 allowances, cash or noncash fringe benefits or both, deferred
18 compensation and welfare benefits. Annual compensation for
19 determining benefits during any determination period may not exceed
20 the maximum compensation allowed as adjusted for cost of living in
21 accordance with section seven, article ten-d, chapter five of this
22 code and Section 401(a)(17) of the Internal Revenue Code.

23 (g) "Annual leave service" means accrued annual leave.

24 (h) "Annuity starting date" means the first day of the first

1 calendar month following receipt of the retirement application by
2 the board or the required beginning date, if earlier: *Provided*,
3 That the member has ceased covered employment and reached early or
4 normal retirement age.

5 (i) "Base salary" means a member's cash compensation exclusive
6 of overtime from covered employment during the last twelve months
7 of employment. Until a member has worked twelve months, annualized
8 base salary is used as base salary.

9 (j) "Board" means the Consolidated Public Retirement Board
10 created pursuant to article ten-d, chapter five of this code.

11 (k) "County commission" has the meaning ascribed to it in
12 section one, article one, chapter seven of this code.

13 (l) "Covered employment" means ~~either~~: (1) Employment as a
14 deputy sheriff and the active performance of the duties required of
15 a deputy sheriff; ~~or~~ (2) the period of time which active duties are
16 not performed but disability benefits are received under section
17 fourteen or fifteen of this article; or (3) concurrent employment
18 by a deputy sheriff in a job or jobs in addition to his or her
19 employment as a deputy sheriff where the secondary employment
20 requires the deputy sheriff to be a member of another retirement
21 system which is administered by the Consolidated Public Retirement
22 Board pursuant to article ten-d, chapter five of this code:
23 *Provided*, That the deputy sheriff contributes to the fund created
24 in section six of this article the amount specified as the deputy

1 sheriff's contribution in section seven of this article.

2 (m) "Credited service" means the sum of a member's years of
3 service, active military duty, disability service and annual leave
4 service.

5 (n) "Deputy sheriff" means an individual employed as a county
6 law-enforcement deputy sheriff in this state and as defined by
7 section two, article fourteen of this chapter.

8 (o) "Dependent child" means either:

9 (1) An unmarried person under age eighteen who is:

10 (A) A natural child of the member;

11 (B) A legally adopted child of the member;

12 (C) A child who at the time of the member's death was living
13 with the member while the member was an adopting parent during any
14 period of probation; or

15 (D) A stepchild of the member residing in the member's
16 household at the time of the member's death; or

17 (2) Any unmarried child under age twenty-three:

18 (A) Who is enrolled as a full-time student in an accredited
19 college or university;

20 (B) Who was claimed as a dependent by the member for federal
21 income tax purposes at the time of the member's death; and

22 (C) Whose relationship with the member is described in
23 subparagraph (A), (B) or (C), paragraph (1) of this subdivision.

24 (p) "Dependent parent" means the father or mother of the

1 member who was claimed as a dependent by the member for federal
2 income tax purposes at the time of the member's death.

3 (q) "Disability service" means service credit received by a
4 member, expressed in whole years, fractions thereof or both, equal
5 to one half of the whole years, fractions thereof or both, during
6 which time a member receives disability benefits under section
7 fourteen or fifteen of this article.

8 (r) "Early retirement age" means age forty or over and
9 completion of twenty years of service.

10 (s) "Employer error" means an omission, misrepresentation, or
11 violation of relevant provisions of the ~~West Virginia Code~~ this
12 code or of the West Virginia Code of State ~~Regulations~~ Rules or the
13 relevant provisions of both ~~the West Virginia Code and of the West~~
14 ~~Virginia Code of State Regulations~~ by the participating public
15 employer that has resulted in an underpayment or overpayment of
16 contributions required. A deliberate act contrary to the provisions
17 of this section by a participating public employer does not
18 constitute employer error.

19 (t) "Effective date" means July 1, 1998.

20 (u) "Final average salary" means the average of the highest
21 annual compensation received for covered employment by the member
22 during any five consecutive plan years within the member's last ten
23 years of service. If the member did not have annual compensation
24 for the five full plan years preceding the member's attainment of

1 normal retirement age and during that period the member received
2 disability benefits under section fourteen or fifteen of this
3 article, then "final average salary" means the average of the
4 monthly salary determined paid to the member during that period as
5 determined under section seventeen of this article multiplied by
6 twelve.

7 (v) "Fund" means the West Virginia Deputy Sheriff Retirement
8 Fund created pursuant to section six of this article.

9 (w) "Hour of service" means:

10 (1) Each hour for which a member is paid or entitled to
11 payment for covered employment during which time active duties are
12 performed. These hours shall be credited to the member for the plan
13 year in which the duties are performed; and

14 (2) Each hour for which a member is paid or entitled to
15 payment for covered employment during a plan year, but where no
16 duties are performed due to vacation, holiday, illness, incapacity
17 including disability, layoff, jury duty, military duty, leave of
18 absence or any combination thereof and without regard to whether
19 the employment relationship has terminated. Hours under this
20 paragraph shall be calculated and credited pursuant to West
21 Virginia Division of Labor rules. A member will not be credited
22 with any hours of service for any period of time he or she is
23 receiving benefits under section fourteen or fifteen of this
24 article; and

1 (3) Each hour for which back pay is either awarded or agreed
2 to be paid by the employing county commission, irrespective of
3 mitigation of damages. The same hours of service shall not be
4 credited both under this paragraph and paragraph (1) or (2) of this
5 subdivision. Hours under this paragraph shall be credited to the
6 member for the plan year or years to which the award or agreement
7 pertains rather than the plan year in which the award, agreement or
8 payment is made.

9 (x) "Member" means a person first hired as a deputy sheriff
10 after the effective date of this article, as defined in subsection
11 ~~(r)~~ (t) of this section, or a deputy sheriff first hired prior to
12 the effective date and who elects to become a member pursuant to
13 section five or seventeen of this article. A member shall remain a
14 member until the benefits to which he or she is entitled under this
15 article are paid or forfeited or until cessation of membership
16 pursuant to section five of this article.

17 (y) "Monthly salary" means the portion of a member's annual
18 compensation which is paid to him or her per month.

19 (z) "Normal form" means a monthly annuity which is one twelfth
20 of the amount of the member's accrued benefit which is payable for
21 the member's life. If the member dies before the sum of the
22 payments he or she receives equals his or her accumulated
23 contributions on the annuity starting date, the named beneficiary
24 shall receive in one lump sum the difference between the

1 accumulated contributions at the annuity starting date and the
2 total of the retirement income payments made to the member.

3 (aa) "Normal retirement age" means the first to occur of the
4 following: (1) Attainment of age fifty years and the completion of
5 twenty or more years of service; (2) while still in covered
6 employment, attainment of at least age fifty years and when the sum
7 of current age plus years of service equals or exceeds seventy
8 years; (3) while still in covered employment, attainment of at
9 least age sixty years and completion of five years of service; or
10 (4) attainment of age sixty-two years and completion of five or
11 more years of service.

12 (bb) "Partially disabled" means a member's inability to engage
13 in the duties of deputy sheriff by reason of any medically
14 determinable physical or mental impairment that can be expected to
15 result in death or that has lasted or can be expected to last for
16 a continuous period of not less than twelve months. A member may be
17 determined partially disabled for the purposes of this article and
18 maintain the ability to engage in other gainful employment which
19 exists within the state but which ability would not enable him or
20 her to earn an amount at least equal to two thirds of the average
21 annual compensation earned by all active members of this plan
22 during the plan year ending as of the most recent June 30, as of
23 which plan data has been assembled and used for the actuarial
24 valuation of the plan.

1 (cc) "Public Employees Retirement System" means the West
2 Virginia Public Employees Retirement System created by article ten,
3 chapter five of this code.

4 (dd) "Plan" means the West Virginia Deputy Sheriff Death,
5 Disability and Retirement Plan established by this article.

6 (ee) "Plan year" means the twelve-month period commencing on
7 July 1 of any designated year and ending the following June 30.

8 (ff) "Qualified public safety employee" means any employee of
9 a participating state or political subdivision who provides police
10 protection, fire-fighting services or emergency medical services
11 for any area within the jurisdiction of the state or political
12 subdivision, or ~~such~~ any other meaning given to the term by Section
13 72(t)(10)(B) of the Internal Revenue Code or by Treasury Regulation
14 §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

15 (gg) "Regular interest" means the rate or rates of interest
16 per annum, compounded annually, ~~as~~ adopted by the board ~~adopts~~ in
17 accordance with the provisions of this article.

18 (hh) "Required beginning date" means April 1 of the calendar
19 year following the later of: (i) The calendar year in which the
20 member attains age seventy and one-half; or (ii) the calendar year
21 in which he or she retires or otherwise separates from covered
22 employment.

23 (ii) "Retire" or "retirement" means a member's withdrawal from
24 the employ of a participating public employer and the commencement

1 of an annuity by the plan.

2 ~~(ii)~~ (jj) "Retirement income payments" means the annual
3 retirement income payments payable under the plan.

4 ~~(jj)~~ (kk) "Spouse" means the person to whom the member is
5 legally married on the annuity starting date.

6 ~~(kk)~~ (ll) "Surviving spouse" means the person to whom the
7 member was legally married at the time of the member's death and
8 who survived the member.

9 ~~(ll)~~ (mm) "Totally disabled" means a member's inability to
10 engage in substantial gainful activity by reason of any medically
11 determined physical or mental impairment that can be expected to
12 result in death or that has lasted or can be expected to last for
13 a continuous period of not less than twelve months. For purposes of
14 this subdivision:

15 (1) A member is totally disabled only if his or her physical
16 or mental impairment or impairments are so severe that he or she is
17 not only unable to perform his or her previous work as a deputy
18 sheriff but also cannot, considering his or her age, education and
19 work experience, engage in any other kind of substantial gainful
20 employment which exists in the state regardless of whether: (A) The
21 work exists in the immediate area in which the member lives; (B) a
22 specific job vacancy exists; or (C) the member would be hired if he
23 or she applied for work.

24 (2) "Physical or mental impairment" is an impairment that

1 results from an anatomical, physiological or psychological
2 abnormality that is demonstrated by medically accepted clinical and
3 laboratory diagnostic techniques. A member's receipt of Social
4 Security disability benefits creates a rebuttable presumption that
5 the member is totally disabled for purposes of this plan.
6 Substantial gainful employment rebuts the presumption of total
7 disability.

8 ~~(mm)~~ (nn) "Year of service". - A member shall, except in his
9 or her first and last years of covered employment, be credited with
10 year of service credit based upon the hours of service performed as
11 covered employment and credited to the member during the plan year
12 based upon the following schedule:

13	Hours of Service	Years of Service Credited
14	Less than 500	0
15	500 to 999	1/3
16	1,000 to 1,499	2/3
17	1,500 or more	1

18 During a member's first and last years of covered employment,
19 the member shall be credited with one twelfth of a year of service
20 for each month during the plan year in which the member is credited
21 with an hour of service. A member is not entitled to credit for
22 years of service for any time period during which he or she
23 received disability payments under section fourteen or fifteen of
24 this article. Except as specifically excluded, years of service

1 include covered employment prior to the effective date. Years of
2 service which are credited to a member prior to his or her receipt
3 of accumulated contributions upon termination of employment
4 pursuant to section thirteen of this article or section thirty,
5 article ten, chapter five of this code, shall be disregarded for
6 all purposes under this plan unless the member repays the
7 accumulated contributions with interest pursuant to section
8 thirteen of this article or had prior to the effective date made
9 the repayment pursuant to section eighteen, article ten, chapter
10 five of this code.

11 **§7-14D-7. Members' contributions; employer contributions.**

12 (a) There shall be deducted from the monthly salary of each
13 member and paid into the fund an amount equal to eight and one-half
14 percent of his or her monthly salary. An additional amount shall be
15 paid to the fund by the county commission of the county in which
16 the member is employed in covered employment in an amount
17 determined by the board: *Provided*, That in any year preceding July
18 1, 2011, the total of the contributions provided in this section,
19 to be paid by the county commission, may not exceed ten and one-
20 half percent of the total payroll for the members in the employ of
21 the county commission; *Provided*, however, That on or after July 1,
22 2011, the total of the contributions provided in this section, to
23 be paid by the county commission, may not exceed thirteen percent
24 of the total payroll for the members in the employ of the county

1 commission. If the board finds that the benefits provided by this
2 article can be actually funded with a lesser contribution, then the
3 board shall reduce the required member or employer contributions or
4 both. The sums withheld each calendar month shall be paid to the
5 fund no later than fifteen days following the end of the calendar
6 month.

7 (b) Any active member who has concurrent employment in an
8 additional job or jobs and the additional employment requires the
9 deputy sheriff to be a member of another retirement system which is
10 administered by the ~~Consolidated Public Retirement~~ board pursuant
11 to article ten-d, chapter five of this code shall make an
12 additional contribution to the fund of eight and one-half percent
13 of his or her monthly salary earned from any additional employment
14 which requires the deputy sheriff to be a member of another
15 retirement which is administered by the Consolidated Public
16 Retirement Board pursuant to article ten-d, chapter five of this
17 code. An additional amount shall be paid to the fund by the
18 concurrent employer for which the member is employed in an amount
19 determined by the board: *Provided*, That in any year preceding July
20 1, 2011, the total of the contributions provided in this section,
21 to be paid by the concurrent employer, may not exceed ten and one-
22 half percent of the monthly salary of the employee: *Provided*,
23 *however*, That on or after July 1, 2011, the total of the
24 contributions provided in this section, to be paid by the

1 concurrent employer, may not exceed thirteen percent of the monthly
2 salary of the employee. If the board finds that the benefits
3 provided by this article can be funded with a lesser contribution,
4 then the board shall reduce the required member or employer
5 contributions or both. The sums withheld each calendar month shall
6 be paid to the fund no later than fifteen days following the end of
7 the calendar month.

8 ~~(c) If any change or employer error in the records of any~~
9 ~~participating public employer or the retirement system results in~~
10 ~~any member receiving from the system more or less than he or she~~
11 ~~would have been entitled to receive had the records been correct,~~
12 ~~the board shall correct the error, and as far as is practicable~~
13 ~~shall adjust the payment of the benefit in a manner that the~~
14 ~~actuarial equivalent of the benefit to which the member was~~
15 ~~correctly entitled shall be paid. Any employer error resulting in~~
16 ~~an underpayment to the retirement system may be corrected by the~~
17 ~~member remitting the required employee contribution and the~~
18 ~~participating public employer remitting the required employer~~
19 ~~contribution. Interest shall accumulate in accordance with the~~
20 ~~retirement board reinstatement interest as established in~~
21 ~~Legislative Rule 162 CSR 7 and any accumulating interest owed on~~
22 ~~the employee and employer contributions resulting from the employer~~
23 ~~error shall be the responsibility of the participating public~~
24 ~~employer. The participating public employer may remit total payment~~

1 ~~and the employee reimburse the participating public employer~~
2 ~~through payroll deduction over a period equivalent to the time~~
3 ~~period during which the employer error occurred.~~

4 **§7-14D-7a. Correction of errors; underpayments; overpayments.**

5 (a) General rule: If any change or employer error in the
6 records of any participating public employer or the plan results in
7 any member, retirant or beneficiary receiving from the plan more or
8 less than he or she would have been entitled to receive had the
9 records been correct, the board shall correct the error. If
10 correction of the error occurs after the effective retirement date
11 of a retirant, and as far as is practicable, the board shall adjust
12 the payment of the benefit in a manner that the actuarial
13 equivalent of the benefit to which the retirant was correctly
14 entitled shall be paid.

15 (b) Underpayments: Any error resulting in an underpayment to
16 the retirement system of required contributions may be corrected by
17 the member or retirant remitting the required employee contribution
18 and the participating public employer remitting the required
19 employer contribution. Interest shall accumulate in accordance with
20 the Legislative board's rule, Refund, Reinstatement, Retroactive
21 Service, Loan And Employer Error Interest Factors, 162 CSR 7,
22 concerning retirement board refund, reinstatement, retroactive
23 service, loan and employer error interest factors and any
24 accumulating interest owed on the employee and employer

1 contributions resulting from an employer error is the
2 responsibility of the participating public employer. The
3 participating public employer may remit total payment and the
4 employee may reimburse the participating public employer through
5 payroll deduction over a period equivalent to the time period
6 during which the employer error occurred. If the correction of an
7 error involving an underpayment of required contributions to the
8 retirement system will result in increased payments to a retirant,
9 including increases to payments already made, any adjustments shall
10 be made only after the board receives full payment of all required
11 employee and employer contributions, including interest.

12 (c) Overpayments: (1) When mistaken or excess employer
13 contributions, including any overpayments, have been made to the
14 retirement system by a participating public employer, due to error
15 or other reason, the board shall credit the participating public
16 employer with an amount equal to the erroneous contributions, to be
17 offset against the participating public employer's future liability
18 for employer contributions to the system. Earnings or interest
19 shall not be credited to the employer.

20 (2) When mistaken or excess employee contributions, including
21 any overpayments, have been made to the retirement system, due to
22 error or other reason, the board has sole authority for determining
23 the means of return, offset or credit to or for the benefit of the
24 employee of the amounts, and may use any means authorized or

1 permitted under the provisions of Section 401(a), et seq. of the
2 Internal Revenue Code and guidance issued thereunder applicable to
3 governmental plans. Alternatively, in its full and complete
4 discretion, the board may require the participating public employer
5 to pay the employee the amounts as wages, with the board crediting
6 the participating public employer with a corresponding amount to
7 offset against its future contributions to the plan: *Provided*, That
8 the wages paid to the employee shall not be considered compensation
9 for any purposes under this article. Earnings or interest shall not
10 be returned, offset, or credited under any of the means used by the
11 board for returning mistaken or excess employee contributions,
12 including any overpayments, to an employee.

13 **§7-14D-9. Retirement; commencement of benefits.**

14 A member may retire and commence to receive retirement income
15 payments on the first day of the calendar month following the
16 board's receipt of the member's voluntary written application for
17 retirement or the required beginning date, if earlier. Before
18 receiving retirement income payments, the member shall have ceased
19 covered employment and reached early or normal retirement age. The
20 retirement income payments shall be in an amount as provided under
21 section eleven of this article: *Provided*, That retirement income
22 payments under this plan ~~shall be~~ are subject to the provisions of
23 this article. Upon receipt of ~~the application~~ a request for
24 estimation of benefits, the board shall promptly provide the member

1 with an explanation of his or her optional forms of retirement
2 benefits and ~~upon~~ the estimated gross monthly annuity. Upon
3 receipt of properly executed retirement application forms from the
4 member, the board shall process the member's request and commence
5 payments as soon as administratively feasible.

6 **§7-14D-16. Awards and benefits for disability - Physical**
7 **examinations; termination of disability.**

8 (a) The board may require any member who has applied for or is
9 receiving disability benefits under this article to submit to a
10 physical examination, mental examination or both, by a physician or
11 physicians selected or approved by the board and may cause all
12 costs incident to the examination and approved by the board to be
13 paid from the fund. The costs may include hospital, laboratory, X
14 ray, medical and physicians' fees. A report of the findings of any
15 physician shall be submitted in writing to the board for its
16 consideration. If, from the report, independent information, or
17 from the report and any hearing on the report, the board is of the
18 opinion and finds that: (1) The member has become reemployed as a
19 law-enforcement officer; (2) two physicians who have examined the
20 member have found that considering the opportunities for law
21 enforcement in West Virginia, the member could be ~~so~~ employed as a
22 deputy sheriff; or (3) other facts exist to demonstrate that the
23 member is no longer totally disabled or partially disabled as the
24 case may be, then the disability benefits shall cease. If the

1 member was totally disabled and is found to have recovered, the
2 board shall determine whether the member continues to be partially
3 disabled. If the board finds that the member is no longer totally
4 disabled, but is partially disabled, then the member shall continue
5 to receive partial disability benefits in accordance with this
6 article. Benefits shall cease once the member has been found to be
7 no longer either totally or partially disabled: *Provided*, That the
8 board shall require recertification for each partial or total
9 disability at regular intervals as specified by the guidelines
10 adopted by the ~~Public Employees~~ Deputy Sheriff Retirement System.

11 (b) If a retirant refuses to submit to a medical examination
12 or submit a statement by his or her physician certifying continued
13 disability in any period, his or her disability annuity may be
14 discontinued by the board until the retirant complies. If the
15 refusal continues for one year, all the retirants rights in and to
16 the annuity may be revoked by the board.

17 **§7-14D-19. Awards and benefits to surviving spouse - When member**
18 **dies from nonservice-connected causes.**

19 (a) In any case where a member who has been a member for at
20 least ten years, while in covered employment after the effective
21 date of this article, has died or dies from any cause other than
22 those specified in section eighteen of this article and not due to
23 vicious habits, intemperance or willful misconduct on his or her
24 part, the fund shall pay annually in equal monthly installments to

1 the surviving spouse during his or her lifetime, a sum equal to the
2 greater of: (i) One half of the annual compensation received in the
3 preceding twelve-month employment period by the deceased member; or
4 (ii) if the member dies after his or her early or normal retirement
5 age, the monthly amount which the spouse would have received had
6 the member retired the day before his or her death, elected a one
7 hundred percent joint and survivor annuity with the spouse as the
8 joint annuitant, and then died. Where the member is receiving
9 disability benefits under section ~~fourteen~~ fifteen of this article
10 at the time of his or her death, the most recent monthly
11 compensation determined under section seventeen of this article
12 shall be substituted for the annual compensation in subdivision (i)
13 of this ~~section~~ subsection.

14 (b) Benefits for a surviving spouse received under this
15 section, section twenty and section twenty-one of this article are
16 in lieu of receipt of any other benefits under this article for the
17 spouse or any other person or under the provisions of any other
18 state retirement system based upon the member's covered employment.