

STATE SENATOR KATHY BERNIER
TWENTY-THIRD SENATE DISTRICT



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From: Senator Kathy Bernier

To: Senate Committee on Government Operations, Technology and Consumer Protection

Re: Testimony on Senate Bill 233
Relating to: withholding from a Wisconsin Retirement System lump sum payment or annuity to satisfy an order of restitution.

Date: September 24, 2019

Thank you Chairman LeMahieu and committee members for allowing me to testify on Senate Bill 233 today. I am grateful for the opportunity to work with Rep. Petryk on this important piece of legislation.

Three years ago, the former Eau Claire County Treasurer and his deputy were convicted of stealing hundreds of thousands of dollars from county coffers. Since that time, both have been sentenced to prison and ordered to begin paying the entire amount back.

Clearly, taxpayers are owed restitution. Unfortunately, current state law does not allow any of that restitution to come from the convicted person's state pension. While it would not be retroactive to this specific case, in a similar situation, Senate Bill 233 would allow a portion of a guilty person's pension to be garnished. This would only apply to cases of felony misconduct by an elected official who steals from an employer that uses the state pension system.

Taxpayers deserve protection and this bill would be one additional safeguard for the public. I ask you to please consider the passage of Senate Bill 233. Thank you again for allowing me to provide testimony today.



Warren Petryk

State Representative • 93rd Assembly District

Date: September 24, 2019

To: Members of the Senate Committee on Government Operations,
Technology and Consumer Protection
From: Representative Petryk

Re: Testimony regarding Senate Bill 233 – Withholding from a
Wisconsin Retirement System lump sum payment or annuity to satisfy an
order of restitution

Good morning Chairman Stroebel and members of the committee. I appreciate this opportunity to come before you today to speak in favor of Senate Bill 233 which I authored with Senator Kathy Bernier in response to an Eau Claire County Board resolution seeking to change state law to allow state and local governments to access state retirement fund accounts of public employees convicted of stealing money from taxpayers. I want to thank Chairman Stroebel, Vice-Chair Senator Kapenga, Senator Craig, and Senator Smith for their support of this important piece of bipartisan legislation.

The bill comes at the request of the Eau Claire County Board after former Eau Claire County Treasurer Larry Lokken and Deputy Treasurer Kay Onarheim, were convicted of multiple counts of theft and misconduct in public office for stealing more than \$625,000 from the county treasurer's office between 2003 and 2016 and potentially may have stolen more than \$1.39 million.

As part of their conviction, they are required to pay restitution back to Eau Claire County taxpayers. As retirees, they are receiving payments from the Wisconsin Retirement System. Under current law, these payments are not considered assets from which criminals can be required to pay restitution. Mr. Larry Lokken is currently receiving more than \$55,000 per year in benefits.

Senate Bill 233 authorizes the Department of Employee Trust Funds (DETF) to withhold money from a participant's Wisconsin Retirement System (WRS) annuity or lump sum payment if ETF is ordered to do so by a court in a restitution order and authorizes ETF to deliver the payment as directed by the court. Federal law limits the amount that can be withheld to 25% of the annuity or lump sum payment. Under SB 233, the court could order restitution only if the conviction meets all three of the following conditions:

- 1) The conviction is for a violation of theft and misconduct in public office;
- 2) The crime resulted in a loss to the defendant's employer that participates in the WRS; and
- 3) The value of the loss exceeds \$2,500.

This legislation is modeled on best practices from other states, including Illinois, Indiana, and Michigan, which already permit restitution to be taken from an individual's public pension following a felony conviction connected to the individual's public employment.

SB 233 is common-sense legislation that protects state, county, and local taxpayers from public officials who violate the public's trust by stealing from taxpayers for their personal gain. This legislation was brought at the request of the Eau Claire County Board and is supported by the Wisconsin Counties Association. If someone steals from taxpayers, why shouldn't we grant courts the ability to compel them to repay what they've stolen? I humbly ask for your support on this very important piece of legislation and thank you for your time. I'm happy to answer any questions you have.