



Warren Petryk

State Representative • 93rd Assembly District

Date: October 24, 2019

To: Members of the Assembly Committee on Judiciary
From: Representative Petryk

Re: Testimony regarding Assembly Bill 257 – Withholding from a Wisconsin Retirement System lump sum payment or annuity to satisfy an order of restitution

Good morning Chairman Ott and members of the committee. I appreciate this opportunity to come before you today to speak in favor of Assembly Bill 257 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 Vice-Chair Representative Horlacher, Representative Thiesfeldt, and Representative Tusler 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.

Assembly Bill 257 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 AB 257, 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.

AB 257 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.

STATE SENATOR KATHY BERNIER
TWENTY-THIRD SENATE DISTRICT



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From: Senator Kathy Bernier

To: Assembly Committee on Committee on Judiciary

Re: Testimony on Assembly Bill 257
Relating to: withholding from a Wisconsin Retirement System lump sum payment or annuity to satisfy an order of restitution.

Date: October 24, 2019

Thank you Chairman Ott and committee members for allowing me to testify on Assembly Bill 257 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, Assembly Bill 257 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 Assembly Bill 257. Thank you again for allowing me to provide testimony today.



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Glenda J. Lyons
County Treasurer

Erica Frueh
Office Manager

To: Members of the Assembly Judiciary Committee

From: Glenda Lyons, Eau Claire County Treasurer

Subject: **AB257** - An Act to renumber and amend 973.20 (2); and to create 40.08 (1t) and 973.20 (2) (bm) of the statutes; Relating to: withholding from a Wisconsin Retirement System lump sum payment or annuity to satisfy an order of restitution.

As Eau Claire County Treasurer and a member of the Wisconsin County Treasurers' Association (WCTA), I would like to share with the members of the Judiciary Committee my viewpoint concerning Assembly Bill 257.

As you most likely know, the taxpayers of Eau Claire County were fraudulently deprived of more than \$1 million that the previous County Treasurer, Larry Lokken and his Deputy, Kay Onarheim were convicted of embezzling. With their conviction, they were ordered to pay restitution in the amount of \$681,847. Under current law, none of that restitution is allowed to come from their state pension funds.

I believe it is unfair that taxpayers, who helped to fund that pension plan, cannot recoup damages for fraudulent behavior from that pension plan. While I believe there should be protection of pension plans as a general rule, that should not be the case when a person has been convicted of both theft and misconduct in office. The money in that pension fund was paid for by the taxpayers who were deprived funds due to the felonious activity of someone in public office. As public servants, we must be held to a high standard of conduct and should not be able to force taxpayers to subsidize an elevated retirement lifestyle for a former official who stole money from them.

I am respectfully asking for you to pass AB 257, even though it most likely will not help with our recent Eau Claire County situation. Please support AB 257 so that this miscarriage of justice does not happen to another community in our state in the future. We must come together as public officials to protect our taxpayers and discourage thefts such as what happened in Eau Claire County in the future.

September 24,2019

RE: Support for Senate bill 233

The case of theft by Larry Lokken and Kay Onarheim from Eau Claire county is one of the largest cases of public misconduct in office our area has ever seen. They orchestrated a scheme over several years to defraud and steal hundreds of thousands of dollars over the years totaling at least \$1.4 million.

When news of the theft was reported, the public was outraged, and rightly so. People were very angry that this theft of taxpayer money had occurred, and the public trust in all elected officials and county employees was deeply shaken.

What is even more offensive, is that Larry Lokken has approximately \$10,000/ income per month coming in from investments and WRS, but his WRS income cannot be accessed for the purpose of repayment to Eau Claire county for his theft.

We in Eau Claire county strongly support this bill and thank you for taking up this bill, and think this law will be a real deterrent for future crimes against counties/municipalities and help to restore the public's trust. No one should be able to steal from their employer and then be "rewarded" with employer retirement benefits when restitution has been ordered

Thank you

Steve Chilson

Eau Claire county supervisor

District 7