

Roger Williams University

DOCS@RWU

---

Life of the Law School (1993- )

Archives & Law School History

---

12-24-2012

## Newsroom: Yelnosky Cited in WPRI Blog

Roger Williams University School of Law

Follow this and additional works at: [https://docs.rwu.edu/law\\_archives\\_life](https://docs.rwu.edu/law_archives_life)

---

### Recommended Citation

Roger Williams University School of Law, "Newsroom: Yelnosky Cited in WPRI Blog" (2012). *Life of the Law School (1993- )*. 335.

[https://docs.rwu.edu/law\\_archives\\_life/335](https://docs.rwu.edu/law_archives_life/335)

This Article is brought to you for free and open access by the Archives & Law School History at DOCS@RWU. It has been accepted for inclusion in Life of the Law School (1993- ) by an authorized administrator of DOCS@RWU. For more information, please contact [mwu@rwu.edu](mailto:mwu@rwu.edu).

# Newsroom

## Yelnosky Cited in WPRI Blog

WPRI's Ted Nesi blogs that "Professor Michael Yelnosky had an important op-ed in Sunday's Projo about the state pension law," questioning its constitutionality.

**From WPRI:** "[Pension law may be unconstitutional, RI law professor warns](#)," by Ted Nesi under The "Nesi's Notes" Blog.

**December 24, 2012: Roger Williams University law professor Michael Yelnosky** had an important op-ed in Sunday's Projo about the state pension law, warning Rhode Islanders that they shouldn't take the public confidence of the law's supporters as a sign that it will be upheld by the courts.

Here's Yelnosky:

“  
*A reader of these pages could be excused for concluding that the state will no doubt prevail in the lawsuits brought by the thousands of current and retired public employees affected by the 2011 Rhode Island Retirement Security Act.*

”  
...

“  
*But these opinions gloss over some real legal issues. ...*”

“  
*The “Contract Clause” of the Rhode Island Constitution (in the same language as the U.S. Constitution) prohibits the state from passing “any law impairing the obligation of contracts.” The retirees assert that the pension law does just that by reducing the annual pension benefits they earned during a career of state employment — benefits set forth in Rhode Island law. ...*”

“  
*I am not predicting that the plaintiffs will win their cases. I write because the commentary on these pages does not take the plaintiffs' arguments seriously. Some might wish it were not so, but judicial review of the pension reform law is*

*the next step unless these cases are settled. If we are going to have an informed public debate about the desirability of settlement talks, a more balanced description of the legal landscape seems in order.*”

Yelnosky's points reinforce others published here in the past – NEARI's Robert Walsh made the union's case at length when the suit was filed, and pension-law expert Amy Monahan of the University of Minnesota warned a year ago that this was a major legal gamble by Treasurer Raimondo and other Rhode Island leaders.

As Tim White has emphasized in his reporting, the key players here almost certainly will be the five justices of the Rhode Island Supreme Court: Suttell, Goldberg, Flaherty, Robinson and Indeglia. Are they willing to risk a “judicial backlash,” as Harvard Law's Noah Feldman put it, by striking down a law backed by large majorities in the General Assembly, and in doing so place a major burden on strained state and local budgets?

Of course, as one smart legal observer reminded me recently, the justices also have the option of throwing out only part of the law and keeping the rest. The fiscal impacts of a mixed verdict will all depend on how the justices carve up the law's provisions. Either way, taxpayers and their elected representatives should at least be contemplating what they'd do the day after the justices strike down the law.

*For full story, click [here](http://blogs.wpri.com/2012/12/24/pension-law-may-be-unconstitutional-ri-law-professor-warns/). [http://blogs.wpri.com/2012/12/24/pension-law-may-be-unconstitutional-ri-law-professor-warns/]*