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Roger Williams University School of Law

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# Newsroom

## Yelnosky: What Pension Settlement Means

Providence Business News asks Professor and Dean Designate Michael Yelnosky what the pension settlement really means for workers -- and for Rhode Island.

From **PROVIDENCE BUSINESS NEWS**: "[Pension settlement leaves future benefits uncertain](#)" by Patrick Anderson, PBN Staff Writer



**PROVIDENCE (Feb. 24, 2014):** The nation has watched Rhode Island's long struggle to repair its public pension system as a possible prologue to retirement overhaul efforts across the country.

The resolution, however, may leave as many questions open as answered. [...] So if the pension settlement is approved, will it tilt the legal and political landscape toward future state leaders or workers?

"The impact of the settlement is much closer to leaving everything up in the air," said **Michael Yelnosky, professor and dean designate at Roger Williams University Law School**. "The purpose of the settlement is to avoid adjudication in terms of what the law is in Rhode Island on the ability for a legislature to make changes to statutory benefits. If approved, it will be the same as it was the day before these cases were filed." [...]

On the question of whether the settlement could become a binding contract preventing future benefit changes from the General Assembly, **Yelnosky said** he didn't think that would be the case, but it is a legitimate concern.



In fact, Exhibit D of the settlement includes language specific to future legislative action. “Nothing in this judgement shall be construed as a limitation on the General Assembly to enact, amend or repeal laws now or in the future.”

Has the General Assembly “become the third party to this contract and now it is easier for the unions to make a breach of contract case? Maybe this gets them closer to that,” **Yelnosky said**.

But even if it did, **Yelnosky said** the state could still argue it was using its emergency powers to justify a change.

If the stakes of the current pension fight were too high for either side to risk going to a judge’s decision, **Yelnosky said** one way to get clarity on the abstract question of whether the state can take away promised benefits, would be for the governor or General Assembly to ask the Rhode Island Supreme Court for an advisory opinion. (That wouldn’t address whether it could use its emergency powers.)

But that would assume both sides really want to know the answer to the legal question when, at least politically, the status quo may suit all parties.

“If the unions thought they had a good case, they certainly won’t think their case got any worse, maybe improved,” **Yelnosky said**. “If the treasurer thought she had the authority to do it before, she still thinks [that].”

*For full story, click  [here.\[](http://www.pbn.com/Pension-settlement-leaves-future-benefits-uncertain,95283?page=1&)*