

State Constitutional Law Exam – Spring 2011
Professor Layton

This exam consists of 5 questions. **You should read these instructions and the entire exam before beginning to answer any question.**

This is an open-book exam. You **must** have your casebook and Missouri Constitution book in hand; some questions use them. There's no need to go beyond those books, class notes, and the exam itself; citing other materials will *not* earn you a higher grade.

At the beginning of each question, I suggest maximum word count for and state the number of points allocated to that question. The points total 100. Consider the points allocated to each question in allocating your time and attention to each question. (The word count really is just a suggestion, one that you shouldn't have to actually meet in order to get full credit for your answer. I simply reserve the right to mark down your answer if you are more than 30% above the suggested word count.)

Remember that I have to actually read your answers. If you do not type them, please write *very* legibly. Do *not* use your name on any of the papers you submit. Use **only** your exam number. **Please start the answer to each question on a new page**, and put your exam number and the question number on *every* page – just in case your exam comes apart and I need to reassemble it. (No, that's never happened in my years of teaching, but I'm a little paranoid about it.)

Good luck!

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1. (700 words, 30 points) Attached is Proposition C, enacted by Initiative in August 2010. It was passed as a statute. The proponents are considering whether to present it again, this time as a constitutional amendment. They ask you three questions: (1) What advantages or disadvantages would result from having it in the constitution? (2) Would the change have any impact on the relationship between the language and federal law? And (3) can they use the same language, or do they need to revise it to qualify as a constitutional amendment? Briefly answer those questions.
2. (20 words; 5 points) In Missouri, at what point during litigation must a party assert a constitutional claim in order not to have waived it?
3. (300 words; 15 points) Choose one of the following provisions of Missouri Constitution Article VI: §§ 11, 15, or 25. State whether that section is self-executing, in whole or in part, and explain what leads you to that conclusion.
4. (500 words; 20 points) Review *Hays v. State Property and Buildings Comm'n*, as excerpted in the casebook at p. 907. Identify the methods of construction or interpretation and sources of authority used by the court in interpreting the state's constitution. Then choose one method of construction or interpretation or source of authority and critique its selection and use, e.g., explain why it was a good or bad choice for the court's analysis; its strengths and weaknesses, as the court used it here and or as other courts might use it in similar cases; what else the court might have done with it; etc.
5. (900 words; 30 points) Attached are the original and final versions of SB161, passed by the Missouri General Assembly on April 26 and immediately signed by the Governor. Assume you have been asked by the proponents of Proposition B whether SB161 is subject to challenge under the Missouri constitution. Describe the possible challenges and their relative strengths and weaknesses.