

State Constitutional Law Exam – Winter 2008
Professor Layton

This exam consists of 7 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.

After the questions, you'll find the attachments referenced in questions 5-7. ***Use the attachments; do not look at the General Assembly's website for other versions or history of these proposals. These are real legislative proposals, but it is always possible that they changed after I copied these versions. You must assume that these are only the versions that have been or are being considered.***

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 maximum, i.e., 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 20% 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!

Professor Layton

1. (300 words; 6 points) Choose one of the following provisions of Missouri Constitution Article V: §§ 16, 17, or 20. State whether that section is self-executing, in whole or in part, and explain what leads you to that conclusion.

2. (600 words; 10 points) Compare Missouri Const. Article I § 22(a) with U.S. Const. Amendment 7. State your best argument for why and how a court should read the Missouri provision to provide more protection to citizens than does its federal counterpart.

3. (20 words; 2 points) In Missouri, at what point during litigation must a party assert a constitutional claim in order not to have waived it?

4. (800 words; 17 points) Review *Cardiff v. Bismarck Public School District*, as excerpted in the casebook at p.1014. Identify the methods of construction or sources of authority used by the court in interpreting the state's constitution. Then choose one of those methods or sources 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.

For questions 5-7, assume that you are working for a member of the Missouri State Senate, Senator Boone.

5. (900 words; 20 points) Senator Boone has been asked to co-sponsor a Senate version of House Joint Resolution 88 (use the copy attached). The Senator asks you if HJR 88 might be susceptible to challenge, if passed. Identify no more than three possible challenges, then explain the one you think would be the strongest and what defense could be asserted to it.

6. (900 words; 20 points) Also with regard to a proposed Senate version of HJR 88, Senator Boone asks you to give – and explain – whether sections 2(c), 2(f), **OR** 3 (pick 1 of the three!! Other employees will do the rest) would be enforceable, and why or why not. Prepare a brief memo.

7. (1100 words; 25 points) Senator Boone wants to get HB 1229 (attached) passed. The bill isn't moving in the Senate – but H.B. 1290 is. Senator Boone asks you whether amending HB 1290 to include the language of HB 1229 is permitted by the Missouri Constitution. (The current and prior versions of HB 1290 are attached.) Please answer in a brief memo.