

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 518 be amended to read as follows:

- 1 Page 20, between lines 16 and 17, begin a new paragraph and insert:
- 2 "SECTION 33. IC 3-9-2-14 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2013]: **Sec. 14. (a) This section does not apply to contributions**
- 5 **made by a candidate for judge of the St. Joseph superior court to**
- 6 **pay expenses connected with the candidate's candidacy.**
- 7 **(b) A candidate for judge of the St. Joseph superior court may**
- 8 **not accept:**
- 9 **(1) a contribution from any political party, political action**
- 10 **committee, or regular party committee; or**
- 11 **(2) contributions that total more than:**
- 12 **(A) five hundred dollars (\$500) from one (1) individual;**
- 13 **(B) one thousand dollars (\$1,000) from two (2) or more**
- 14 **individuals associated with one (1) law firm; or**
- 15 **(C) ten thousand dollars (\$10,000) from all sources;**
- 16 **to pay expenses connected with the candidate's candidacy."**
- 17 Page 68, between lines 29 and 30, begin a new paragraph and insert:
- 18 "SECTION 102. IC 33-33-71-5 IS AMENDED TO READ AS
- 19 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 5. (a) There is**
- 20 **established a superior court in St. Joseph County.**
- 21 **(b) The court consists of eight (8) judges, who shall be elected in**
- 22 **nonpartisan elections every six (6) years in St. Joseph County as**
- 23 **provided in section 5.3 of this chapter.**
- 24 **(c) The term of a judge:**

- 1           **(1) begins January 1 following the judge's election; and**  
 2           **(2) ends December 31 following the election of the judge's**  
 3           **successor.**
- 4           SECTION 103. IC 33-33-71-5.3 IS ADDED TO THE INDIANA  
 5           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6           [EFFECTIVE JULY 1, 2013]: **Sec. 5.3. (a) Each of the eight (8) St.**  
 7           **Joseph superior court judges shall be elected in nonpartisan**  
 8           **elections every six (6) years.**
- 9           **(b) During the period under IC 3-8-2-4 in which a declaration**  
 10           **of candidacy may be filed for a primary election, a person who**  
 11           **desires to become a candidate for one (1) of the eight (8) judgeships**  
 12           **described in subsection (a) must file with the election division a**  
 13           **declaration of candidacy that:**
- 14               **(1) is adapted from the form prescribed under IC 3-8-2;**  
 15               **(2) is signed by the candidate; and**  
 16               **(3) designates which judgeship the candidate seeks.**
- 17           **A declaration that does not include the designation required by**  
 18           **subdivision (3) shall be rejected by the election division or by the**  
 19           **Indiana election commission under IC 3-8-1-2.**
- 20           **(c) To be eligible for election under this section, a candidate for**  
 21           **a judgeship:**
- 22               **(1) must be a citizen of the United States;**  
 23               **(2) must be a resident of St. Joseph County;**  
 24               **(3) must be admitted to the practice of law in Indiana;**  
 25               **(4) must have at least five (5) years of experience in the active**  
 26               **practice of law;**  
 27               **(5) may not previously have had any disciplinary sanction**  
 28               **imposed upon the candidate by:**
- 29                   **(A) the supreme court disciplinary commission of Indiana;**  
 30                   **or**  
 31                   **(B) any similar body in another state; and**  
 32               **(6) may not previously have been convicted of any felony.**
- 33           **If a person does not qualify under this subsection, the person may**  
 34           **not be listed on the ballot as a candidate.**
- 35           **(d) If a person:**
- 36               **(1) files a declaration of candidacy under subsection (b); and**  
 37               **(2) subsequently ceases to be a candidate after the final date**  
 38               **for filing a declaration under subsection (b);**  
 39           **the election division may accept the filing of additional declarations**  
 40           **of candidacy for that judgeship until not later than noon August 1.**
- 41           **(e) All candidates for each respective judgeship shall be listed on**  
 42           **the general election ballot:**
- 43               **(1) in the form prescribed by IC 3-11; and**  
 44               **(2) without party designation.**
- 45           **The candidate who receives the highest number of votes for each**  
 46           **judgeship shall be elected to that office.**
- 47           **(f) IC 3, where not inconsistent with this chapter, applies to**

1 **elections under this chapter.**

2 SECTION 104. IC 33-33-71-36 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 36. (a) When a vacancy  
4 occurs in the St. Joseph superior court **that is created by the**  
5 **departure of a judge before the expiration of the judge's term of**  
6 **office**, the clerk of the court shall promptly notify the chairman of the  
7 commission of the vacancy. The chairman shall call a meeting of the  
8 commission within ten (10) days following this notice. The commission  
9 shall submit its nominations of five (5) candidates for each vacancy and  
10 certify them to the governor as promptly as possible, and not later than  
11 sixty (60) days after the vacancy occurs. When it is known that a  
12 vacancy will occur at a definite future date within the term of the  
13 serving governor, but the vacancy has not yet occurred, the clerk shall  
14 notify the commission immediately. The commission may within fifty  
15 (50) days of the notice of vacancy make its nominations and submit to  
16 the governor the names of five (5) persons nominated for the  
17 forthcoming vacancy.

18 (b) Meetings of the commission shall be called by the chairman or,  
19 if the chairman fails to call a necessary meeting, upon the call of any  
20 four (4) members of the commission. The chairman, whenever the  
21 chairman considers a meeting necessary, or upon the request by any  
22 four (4) members of the commission for a meeting, shall give each  
23 member of the commission at least five (5) days written notice by mail  
24 of the time and place of every meeting unless the commission at its  
25 previous meeting designated the time and place of its next meeting.

26 (c) Meetings of the commission must be held at a place in the St.  
27 Joseph County courthouse in South Bend as the clerk of the St. Joseph  
28 superior court may arrange.

29 (d) The commission shall act only at a meeting and may act only by  
30 the concurrence of a majority of its members attending a meeting. Four  
31 (4) members are required to constitute a quorum at a meeting. The  
32 commission may adopt reasonable and proper rules and regulations for  
33 the conduct of its proceedings and the discharge of its duties.

34 SECTION 105. IC 33-33-71-40 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 40. (a) A vacancy  
36 occurring in the St. Joseph superior court **that is created by the**  
37 **departure of a judge before the expiration of the judge's term of**  
38 **office** shall be filled by appointment of the governor from a list of  
39 nominees presented to the governor by the judicial nominating  
40 commission. If the governor fails to make an appointment from the list  
41 within sixty (60) days from the day it is presented to the governor, the  
42 appointment shall be made by the chief justice or the acting chief  
43 justice of the supreme court from the same list presented to the  
44 governor.

45 (b) The governor shall make all appointments to the St. Joseph  
46 superior court without regard to the political affiliation of any of the

1 nominees submitted to the governor. In the interest of justice, the  
 2 governor shall consider only those qualifications of the nominees  
 3 included in section 37 of this chapter.

4 (c) If the St. Joseph County judicial nominating commission, by a  
 5 vote of any five (5) of its members, determines that, of the persons  
 6 considered for any existing or expected vacancy in the St. Joseph  
 7 superior court, less than five (5) are qualified for judicial office, within  
 8 the scope of this chapter, the commission shall certify that  
 9 determination to the governor together with the name or names of the  
 10 person or persons found to be qualified under this chapter. In that  
 11 event, the governor, chief justice, or acting chief justice shall make the  
 12 selection or, if only one (1) name is submitted, make the appointment.

13 SECTION 106. IC 33-33-71-41 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 41. (a) An appointment  
 15 by the governor, chief justice, or acting chief justice, as required by  
 16 section 40 of this chapter, to the St. Joseph County superior court shall  
 17 take effect immediately if a vacancy exists at the date of the  
 18 appointment. The appointment shall take effect on the date the vacancy  
 19 is created if a vacancy does not exist on the date of the appointment.

20 (b) **A judge appointed under section 40 of this chapter serves**  
 21 **during the unexpired part of the judge's predecessor's term in**  
 22 **office.**

23 SECTION 107. IC 33-33-71-42 IS REPEALED [EFFECTIVE JULY  
 24 1, 2013]. Sec. 42: (a) Each judge appointed serves an initial term that  
 25 begins on the effective date of the judge's appointment and continues  
 26 through December 31 in the year of the general election that follows  
 27 the expiration of two (2) years after the effective date of the judge's  
 28 appointment:

29 (b) ~~Thereafter, unless rejected by the electorate of St. Joseph County~~  
 30 ~~under this chapter, each judge of the St. Joseph superior court serves~~  
 31 ~~successive six (6) year terms. Each successive six (6) year term begins~~  
 32 ~~on the first day of January following the expiration of the preceding~~  
 33 ~~initial term or the preceding six (6) year term and continues for six (6)~~  
 34 ~~years:~~

35 SECTION 108. IC 33-33-71-43 IS REPEALED [EFFECTIVE JULY  
 36 1, 2013]. Sec. 43: (a) The question of the retention in office or rejection  
 37 of each judge of the St. Joseph superior court shall be submitted to the  
 38 electorate of St. Joseph County at the general election immediately  
 39 preceding expiration of the term of that judge:

40 (b) ~~If a judge subject to this chapter does not desire to serve a~~  
 41 ~~further term, the judge shall notify the judge's intention in writing to the~~  
 42 ~~clerk of the St. Joseph circuit court at least sixty (60) days before the~~  
 43 ~~general election immediately preceding expiration of the judge's term~~  
 44 ~~in which case the question of the judge's retention in office or rejection~~  
 45 ~~may not be submitted to the electorate, and the office is vacant at the~~  
 46 ~~expiration of the term:~~

1 (c) The St. Joseph County election board shall submit the question  
 2 of the retention in office or rejection of any judge to the electorate of  
 3 St. Joseph County. The submission of this question is subject to the  
 4 provisions of IC 3 that are not inconsistent with this chapter.

5 (d) At the general election, the question of the retention in office or  
 6 rejection of a judge shall be submitted to the electorate of St. Joseph  
 7 County in the form prescribed by IC 3-11 and must state "Shall Judge  
 8 (insert name) of the St. Joseph superior court be retained in office for  
 9 an additional term?".

10 (e) If a majority of the ballots cast by the electors voting on the  
 11 question is "No", the judge whose name appeared on such question is  
 12 rejected. The office of the rejected judge is vacant on January 1  
 13 following the rejection. The vacancy shall be filled by appointment of  
 14 the governor under section 40 of this chapter. The name of the rejected  
 15 judge may not be included among those submitted to the governor.  
 16 However, the judge's rejection does not disqualify a rejected judge  
 17 from being considered for another judicial office that becomes vacant.

18 SECTION 109. IC 33-33-71-44 IS REPEALED [EFFECTIVE JULY  
 19 1, 2013]. Sec. 44. (a) During a term of office, a judge of the St. Joseph  
 20 superior court may not engage in the practice of law, run for an elective  
 21 office other than a judicial office, or directly or indirectly make any  
 22 contributions to or hold any office in a political party or organization.  
 23 A judge may not take part in any political campaign except as a  
 24 candidate for retention in judicial office and, in that event, the judge's  
 25 campaign participation must be absolutely devoid of partisan  
 26 association and be limited to activities designed to acquaint the  
 27 electorate with the judge's judicial record.

28 (b) Failure to comply with this section is sufficient cause for the  
 29 commission on judicial qualifications established by section 45 of this  
 30 chapter to recommend to the supreme court that the judge be censured  
 31 or removed from office.

32 SECTION 110. IC 33-33-71-68 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 68. (a) Whenever a  
 34 judge of a St. Joseph County court is retired by the supreme court under  
 35 this chapter and on the grounds set forth in ~~sections 44 and~~ **section** 46  
 36 of this chapter, the judge is considered to have retired voluntarily. In  
 37 these situations, this chapter may not be construed to authorize any  
 38 encroachment upon or impairment of any rights of the judge or the  
 39 judge's surviving spouse under any constitutional or statutory  
 40 retirement program.

41 (b) A judge of a St. Joseph County court who is removed from office  
 42 by the supreme court on those grounds set forth in ~~sections 44 and~~  
 43 **section** 46 of this chapter is ineligible for judicial office and, pending  
 44 further order of the supreme court, shall be suspended from the practice  
 45 of law in Indiana.

46 SECTION 111. IC 33-33-71-70 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2013]: **Sec. 70. (a) Notwithstanding the**  
3 **amendment and repeal of provisions in this chapter in legislation**  
4 **enacted in 2013, the term of a judge in office in the St. Joseph**  
5 **superior court on June 30, 2013, does not terminate until the date**  
6 **that the term would have terminated under the law in effect on**  
7 **June 30, 2013.**  
8 (b) **The initial nonpartisan election under this chapter, as**  
9 **amended by legislation enacted in 2013, to fill a judge's position on**  
10 **the St. Joseph superior court is the general election immediately**  
11 **preceding the date on which the term of the judge occupying the**  
12 **position on June 30, 2013, would have terminated under the law in**  
13 **effect on June 30, 2013.**  
14 (c) **This section expires January 2, 2019."**  
15 Renumber all SECTIONS consecutively.  
(Reference is to ESB 518 as printed March 29, 2013.)

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Representative Wesco