



Title: **Governor to appeal judge's order**
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 Size: 44.33 square inch
 Topeka, KS Circulation: 47801

Governor to appeal judge's order

Ruling denied effort to block access to record

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Gov. Sam Brownback will appeal a Shawnee County District judge's or-

der on Sept. 18 that denied Brownback's effort to block disclosure of information about applicants seeking appointment to expanded county commission seats in Saline County, according to a motion filed Friday by the governor's attorneys. Shawnee County District Judge Rebecca W. Crotty made the ruling two weeks earlier.

The Friday filing also asks Crotty for "clarification" of her order, saying it was "unclear" whether the judge's memorandum decision and order is a "final

ORDER continues on 9A

Order: Information on applicants sought

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determination of the parties' rights."

The Salina Journal and The Associated Press filed the lawsuit seeking disclosure of information about applicants for vacancies on the Saline County Commission. The lawsuit was based on the Kansas Open Records Act.

The litigation centered on whether KORA would force disclosure of all or part of the materials submitted by about 14 applicants to Brownback.

Besides the governor, Eileen Hawley, Brownback's spokeswoman, and Kim Borchers, Brownback's director of appointments, county: Shawnee

were defendants in the lawsuit.

The motion on Friday didn't say when Brownback would file the appeal.

The governor was responsible for appointing two members to the Saline County Commission after it was expanded by voters in a Nov. 4 election from three to five members. In part, the lawsuit sought disclosure of all who sought the Saline County Commission vacancies.

The Salina Journal and the AP filed suit in January after the governor refused to reveal the identity of candidates seeking appointment to the two county commission posts.

The defendants had

contended the requested records were exempt from the open records act and that Brownback wasn't the custodian of the requested records.

On Sept. 18, Crotty said the requested county commission applications weren't exempt under the open records law.

The governor had claimed he is entitled to exercise his executive appointment powers without intrusion under the protection of KORA, which protects the pre-decisional and deliberation process.

The governor also had objected to disclosing the applications because he contended personal information would be disclosed,

constituting an invasion of personal privacy.

But the judge said personal information, such as Social Security numbers and driver's license numbers, will be redacted from the applications.

As for the governor's contention that he isn't the proper custodian of the applicant records, Crotty ruled that in the governor's official capacity, any injunctive relief ordered by the district court applies to all employees of Brownback's office, including Hawley and Borchers.

Finally, the governor contended the requested records were exempt based on an open records provision not to disclose cor-

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respondence between a public agency and a private individual.

"However, the applications for appointment are not 'correspondence,'" Crotty ruled.

The Salina Journal requested applications for appointment and the AP requested a list of applicants with their hometowns and the applications.

"Neither the applications nor a list of applicants is protected as correspondence," the judge wrote.

The Topeka Capital-Journal is helping finance the lawsuit, but isn't a formal party to the litigation.

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Brownback