

Court Rules For Governor, Kia In Open Records Case

Kate Brumback, Associated Press

ATLANTA (AP) -- The Georgia Supreme Court ruled Monday in favor of the governor and Kia Motors Manufacturing in an open records dispute over hiring records.

A Fulton County Superior Court judge had refused to dismiss a lawsuit filed by four people who were among about 43,000 who applied for jobs at the Kia plant in West Point. The four say they were discriminated against because they had been affiliated with the United Auto Workers labor union.

A 2006 agreement between the state of Georgia and Kia Motors Manufacturing to build a \$1.2 billion auto plant in West Point included a provision that the state build a facility next to the site to train new employees. The training facility was part of the state Department of Economic Development's Quick Start program, which is meant to provide a trained workforce as an economic development incentive.

The four rejected workers said the state helped the auto manufacturer create a screening and hiring process designed to exclude union workers. They filed an Open Records Act request in September 2011 seeking documents regarding the state's involvement.

The state responded that it either didn't have such records or didn't have to disclose them under the open records law because they constituted trade secrets.

The four job applicants sued the governor and the technical college system in December 2011, challenging the classification of the documents as "trade secrets."

Several months after the lawsuit was filed, the Legislature undertook a sweeping overhaul of the Open Records Act. It included an exemption for records that would disclose a potential economic development project until a binding agreement has been reached. It also exempts records related to a training program. And it made that exemption retroactive and said it could be used to withhold documents sought by a lawsuit.

Gerry Weber, the job applicants' lawyer, argued the Legislature adopted the exemptions and made them retroactive specifically to remove the cause of action for his clients' lawsuit and to keep them from getting the documents they had requested.

In the unanimous opinion, Justice Keith Blackwell wrote that the high court believes the application of the amended law to this case was constitutional. However, it is not completely clear that all the records sought by the job applicants are exempt from disclosure under the amended law, Blackwell wrote, saying it is up to the lower

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court to determine what, if any, records should be released under the amended law.

Weber said he was disappointed in the high court's ruling and that it will limit his clients' access to records they were seeking to determine whether Kia and the state blacklisted people with union affiliations. But he said there are also broader implications

"Any rights that citizens have under the open records and open meetings laws are on very thin ice," he said. "A citizen can file a lawsuit under the open records law and if the Legislature wants to hide the records that you're seeking, they can just change the law while your lawsuit is in midstream, and that is exactly what happened in our case."

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