

Exclusive: Agua Special Utility District approved secret severance payments worth \$489,000 by Dave Hendricks, KGBT-TV

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<http://valleycentral.com/news/local/exclusive-agua-special-utility-district-approved-secret-severance-payments-worth-489000>

The Agua Special Utility District approved severance packages worth \$489,000 for two high-profile administrators during July — and attempted to keep the agreements secret.

Former Executive Director Oscar Cancino approved severance packages for La Joya school board President Oscar “Coach” Salinas, the utility community relations coordinator, and La Joya school board Vice President Armin Garza, the utility project manager, on July 17.

They walked away with six-figure checks: \$221,000 for Salinas and \$268,000 for Garza, according to documents released Thursday.

“It certainly smells, to say the least,” said state Sen. Juan “Chuy” Hinojosa, D-McAllen, who pressured the utility to release the records, adding that the public would ultimately decide whether the payments were justified. “And yet the way it was done was really, in my judgment, not right. Not compliant with the spirit of the law. And to a point, I would even say it’s unethical.”

Neither Cancino nor utility board President Rogelio “Roger” Hernandez III responded to requests for comment Thursday. Both men previously refused to comment on the severance agreements.

The utility took extraordinary steps to keep the agreements and six-figure payments secret.

A majority of the utility board authorized Cancino to negotiate the severance agreements and make the payments without any further approval from the board — keeping the board in the dark.

The severance agreements also included provisions designed to keep the details secret and protect the documents from disclosure.

A confidentiality clause prevented the employees and the utility from discussing the severance packages. The agreements also included a novel legal argument: Citing *Boeing v. Paxton*, a Texas Supreme Court case that created a new exception to the state Public Information Act for business records that may provide a competitive advantage to another party, the agreements state “the contents of this settlement do not meet the definition of public information and/or are excepted from disclosure.”

That argument apparently rests on the claim that revealing the severance payments would “hinder the future negotiating ability of Agua SUD with other employees,” according to the agreements.

State Rep. Terry Canales, D-Edinburg, took a dim view of the *Boeing v. Paxton* argument.

“The fact that Agua has tried to expand the *Boeing v. Paxton* ruling to include their nefarious severance payments is not only a wild stretch of the imagination, it’s disheartening and shameful at best,” Canales said in a statement.

After CBS 4 News threatened to file complaints with the Attorney General's Office, the utility reached an agreement with the former employees to waive confidentiality concerns and release the documents Thursday.

Hinojosa also [pressured the utility](#) to release the records. He received complaints about how the utility handled public information requests and calls from constituents about the [secret agreements](#).

Concerned about the lack of transparency, Hinojosa [requested a slew of documents](#) from the utility under Texas Government Code Section 552.008, which allows lawmakers special access to government records.

"The public has a right to know what they're doing with the taxpayer's money and the public's money," Hinojosa said. "And so I'm using my authority as a state senator to make that correction."

Providing records to lawmakers, though, doesn't waive any exceptions the utility may assert under the Public Information Act. Hinojosa plans to meet with the Attorney General's Office on Friday afternoon and release the records as soon as possible.

La Joya Water Supply Corp.

The Texas Legislature created the Agua Special Utility District after mismanagement and corruption convinced lawmakers they simply couldn't fix the La Joya Water Supply Corp., which provided water to western Hidalgo County.

As CBS 4 News [previously reported](#):

After concluding that La Joya Water Supply couldn't be fixed, state Sen. Juan "Chuy" Hinojosa and former state Rep. Ismael "Kino" Flores Sr. crafted legislation to shut down the water supply corporation and start over.

Lawmakers also asked the State Auditor's Office to review La Joya Water Supply's operations and management. Auditors determined:

- *La Joya Water Supply kept such poor financial records that auditors couldn't determine whether or not money was misappropriated.*
- *La Joya Water Supply didn't bill all active accounts, didn't bill all accounts correctly and didn't account for all money collected. As many as 30 percent of all water meters marked inactive were actually receiving water without being billed.*
- *La Joya Water Supply employees appeared to have spent about \$37, 600 on personal expenses, including tools and airplane tickets.*

State District Judge Aida Salinas Flores placed La Joya Water Supply in receivership on Aug. 31, 2005 — taking control away from voters and appointing a management team.

The management team sent more than 2,000 collection letters to customers who hadn't paid bills, charged higher rates and started fixing major leaks in the water supply system, according to monthly reports submitted to the court.

After three years under court supervision, the judge ordered the management team to dissolve La Joya Water Supply in September 2008. They transferred all assets and obligations to a new entity called the Agua Special Utility District.

Concerns about mismanagement and politically motivated decision-making slowly resurfaced, culminating in September 2016 with the sudden resignation of Executive Director Julio Cerdá and the [removal of board President Ricardo Ochoa](#).

Critics warned corruption had returned. Supporters of the relatively new board — a political organization called Team L1berty — said they simply wanted to fix longstanding problems at the utility, which had little flexibility under court supervision.

The commotion caught Hinojosa's attention.

Senate Bill 814

Hinojosa authored Senate Bill 814, which attempted to address concerns about cronyism at the utility. A majority of the seven-member utility board — Director Rogelio "Roger" Hernandez III, Director Lloyd Loya, Director Esequiel "Zeke" Ortiz Jr. and Director Cesar Rodriguez Jr. — works for the La Joya school district.

They employed two La Joya school board trustees, board President Oscar Salinas and board Vice President Armin Garza.

The reciprocal employment relationship rubbed Hinojosa the wrong way.

Senate Bill 814 proposed new regulations to prevent cronyism:

(m) If a director is an employee of another taxing entity within the district, the board may not employ as an employee, as a consultant, or on a contract basis:

- (1) an elected official of the other taxing entity that employs the director; or*
- (2) a person related to that elected official in the third degree of consanguinity or affinity as determined under Chapter 573, Government Code.*

If the bill became law, Salinas and Garza would be forced to choose between the school board and their jobs at the utility.

The utility lobbied the Texas Legislature and initially convinced lawmakers to grandfather existing employees.

State Rep. Terry Canales, though, [restored the original language](#) with a late-night floor amendment.

Both the Texas House and the Texas Senate approved the bill, which became law without Gov. Greg Abbott's signature.

While the utility lost the legislative fight, it'd already concocted a plan to protect Salinas and Garza from the fallout.

Employment Contracts

On May 1 — after the Texas Senate passed the bill, but before the Texas House took action — the utility district approved five-year employment contracts with Salinas and Garza.

“Due to outside influences to dictate whom the Employer employ the Employer is offering this written contract of employment,” according to the contracts.

The utility guaranteed Salinas a \$70,000 annual salary until May 2022, according to the contract. The utility guaranteed Garza \$85,000 annually for the same five-year period.

After the bill passed, the utility board authorized Cancino, the executive director, to negotiate with Salinas and Garza.

The unusually broad authority granted by the board allowed Cancino to negotiate the severance agreements without taking the terms back to the board for approval. As a result, not even the board knew how the utility spent public money.

“The public has a right to know,” said utility board Director Homer Tijerina, who voted against negotiating the secret agreements. “This is their money.”

Ben Castillo — an attorney at Austin-based law firm O'Hanlon, Demerath and Castillo, which handles public information requests for the La Joya school district — represented Salinas and Garza during the severance negotiations.

When the negotiations took place, attorney Javier Peña, who represents the school district in a lawsuit, also worked for the utility. Peña said attorney-client privilege prevented him from commenting on what, if any, advice he provided to the utility related to the severance agreements.

The agreements blame state lawmakers for the severance packages.

“With out (sic) the advice or consent of Agua SUD SB 814 became law. This law forbids the continued employment of Employee,” according to the severance agreements. “Despite Agua SUDs notice to State Legislators that the passage of SB 814 would affect the constitutional and contractual rights of multiple employees, the legislators saw fit to place Agua SUD and its employee in this conflict.”

The severance packages compensated Salinas and Garza for three years and two months of salary and benefits.

“They're looting the public treasury — the public's money,” Hinojosa said.

The payments also shocked former utility board President Mario Chapa, who still attends most meetings.

“It's crazy,” Chapa said.

Neither Cancino nor his predecessor, Julio Cerdá, had employment contracts, Chapa said, adding that he doesn't understand why the utility would approve five-year agreements for lower-level employees.

Attorneys for the utility district provided CBS 4 News with a [copy of a memo](#) sent to all utility employees on May 12 offering employment contracts.

Salinas and Garza, though, signed their employment contracts on May 1.

The attorneys couldn't explain why Salinas and Garza negotiated their agreements 11 days before the memo. They also couldn't identify any other employee who received an employment contract. Asked about the agreements, Salinas provided a statement:

"At the last legislative session, Sen. Chuy Hinojosa introduced a Bill that I felt was political and was meant to target specific individuals. This Bill deemed me unfit/disqualified to work for my employer, Agua SUD. I had an employment contract at the time. When Agua SUD informed me of their intent to terminate me this past summer, I opted to explore my legal options. I felt that any negative employment action against me would be a blatant breach of my employment contract. I agreed to enter into possible resolution discussions in an effort to avoid expensive and burdensome legal proceedings. At the conclusion of my discussions, I made a decision to resolve my issues with the best interests of my family in mind."

Garza also provided a statement:

"In February of 2017 a Bill introduced by Sen. Chuy Hinojosa required my former employer, Agua SUD, to terminate the employment of employees that Sen. Hinojosa deemed to be disqualified to work for Agua SUD. I was included in this group of employees. At the time of the passage of this Bill I had a employment contract with Agua SUD. As anybody in my position would do, when I was notified of Agua SUD's intent to terminate me, I threatened legal action against Agua SUD. I felt that any action to terminate my agreement would be a breach of my employment contract. As a result, I entered into discussions to resolve my potential legal issues. At the end of those discussions I agreed to a resolution which I believed was in the best interest of my family."

Epilogue

Salinas and Garza remain on the school board, but they no longer hold full-time government jobs.

The [Peñitas Economic Development Corp.](#) and the [Development Corp. of Peñitas](#) — the city's twin economic development arms — hired Garza as a consultant in December 2016.

They pay Garza, who holds a bachelor's degree in sports and recreational management from Baylor University, to handle public relations, marketing and business development. He earns \$3,000 per month. After leaving the utility, Salinas [filed paperwork to build a restaurant](#) in Sullivan City.

Cancino [resigned](#) from the utility in September. He owns STRADA Engineering and Consulting, which handles construction projects throughout the Rio Grande Valley.

Hinojosa said he's hopeful the utility board learned a lesson.

"First of all, I am glad to see that the Agua board members are finally moving forward and releasing information to the public," Hinojosa said, adding: "It seems to me like they're taking back the authority that they delegated to the previous Agua director and their attorneys — so they can make decisions that are best for Agua and the public."

District Attorney: Texas Rangers to review Agua SUD

by CBS 4 News

Friday, January 19th 2018

<http://valleycentral.com/news/local/district-attorney-texas-rangers-to-review-agua-sud>

The Texas Rangers have agreed to assist the Hidalgo County District Attorney's Office in reviewing recent actions taken by the Agua Special Utility District, according to a news release from Hidalgo County District Attorney Ricardo Rodriguez Jr.

The review will determine if there has been any criminal offense committed by Agua SUD, according to the news release.

The announcement comes more than a week after [Agua SUD backtracked](#) on the implementation of a \$1,000 filing fee for the May 2018 Board of Director's election.

District 20 State Senator Juan "Chuy" Hinojosa called the fee "excessive", saying Agua SUD didn't have the authority to make such a move.