

August 9, 2023

Frequently Asked Questions (FAQ)

Springs Hill Water Supply Corporation Conversion to a Special Utility District

The Springs Hill Water Supply Corporation Office has received some phone calls recently concerning its potential conversion into a special utility district, and it desires to issue this FAQ to answer those questions and share this important information with all of its members:

Question: Has Springs Hill Water Supply Corporation (WSC) already become a special utility district (SUD)?

Answer: Not yet. While the Texas Legislature enacted **House Bill 5303** in the 2023 Session, creating Springs Hill SUD, the bill also provides that it does not take effect until September 1, 2023 and that the creation of Springs Hill SUD is subject to a “confirmation election,” which must be held before September 1, 2026. To be clear, Springs Hill currently plans to hold that confirmation election on November 7, 2023 (the day of the uniform General Election), and more information will be coming out about that election on the Springs Hill WSC website by the end of August 2023. If an election is not held by September 1, 2026 or the confirmation election fails, then Springs Hill WSC will not convert into a Springs Hill SUD and Springs Hill WSC will continue to exist. Once Springs Hill SUD is confirmed, it will hold another vote to dissolve Springs Hill WSC.

Question: What is a SUD in Texas?

Answer: A SUD is a political subdivision of the State of Texas—it is a governmental entity and its directors are elected officials. A SUD operates under Chapters 49 and 65 of the Texas Water Code. Like a water supply corporation, a SUD’s primary duties are to provide water and wastewater services to the public. Currently, Springs Hill WSC only provides water service, and it intends to keep it that way.

Question: Can a SUD levy an ad valorem (property) tax?

Answer: This is sometimes a point of confusion. **A SUD does NOT have the authority under Texas law to levy an ad valorem tax on its constituents/landowners.** It is true that municipal utility districts and water control & improvement districts can levy

such a tax, Texas Water Code § 65.235 specifies that SUD CANNOT levy ad valorem taxes. Further, a SUD cannot convert into another type of water district that has taxing authority unless it has voter approval.

Question: Will this conversion from a WSC to a SUD cause my water bills to increase?

Answer: No. The conversion from Springs Hill from a WSC to a SUD will not cause a rate increase. But Springs Hill does periodically review and sometimes has to increase its water rates. And, those increases are due to mandatory price increases in its existing water supply contracts and other increases in expenses such as electricity, chemicals, materials, and labor. As everyone has probably been experiencing over the past couple of years when going to the grocery store to buy food and other household goods, inflation has caused the costs of everything to go up significantly. Springs Hill has been fairly good at keeping its rate changes to a minimum, but any increases that its customers see will be due to increases in Springs Hill's costs, not simply because of the conversion into a SUD. Springs Hill WSC's financial information is publicly available, and the Springs Hill Board of Directors reviews its expenses each month at their regular meeting, which is open to the public.

Question: Does a SUD have eminent domain authority? Does Springs Hill WSC currently have eminent domain authority?

Answer: Yes. Both WSCs and SUDs can condemn property. Texas Water Code § 49.222(a) states: **"A district or water supply corporation may acquire by condemnation any land, easements, or other property inside or outside the district boundaries, or the boundaries of the certificated service area for a water supply corporation, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes, and may elect to condemn either the fee simple title or a lesser property interest."** Therefore, both a SUD and a WSC may have eminent domain authority. Springs Hill WSC has had eminent domain authority since 1967 and Staff is not aware of an instance where it has exercised its eminent domain powers in at least the past 15 years. Plus, you may check Springs Hill WSC's eminent domain reports in the Texas Comptroller's Eminent Domain Database available here: <https://coedd.comptroller.texas.gov/>. House Bill 5303, passed with over a two-thirds vote in both the Texas Senate and House of Representatives, gives Springs Hill SUD eminent domain authority.

Question: Why does Springs Hill WSC’s Board of Directors think it is necessary and desirable to convert into a special utility district?

Answer: **The Board of Directors’s primary reason to convert into a SUD is because being a SUD will enable Springs Hill to acquire/maintain water supplies and construct/replace water facilities at a lower cost to the end user-customer.** Due to the unprecedented growth in the area between the Cities of New Braunfels and Seguin, within Springs Hill WSC’s water service area, over the last several years, the increased demand for water service has been enormous. As a result of this tremendous growth, Springs Hill WSC is receiving an extraordinary number of new requests for water service. Springs Hill WSC has been working diligently to increase its available water supply to fulfill those requests at the lowest cost possible, without burdening its existing customers with such costs. As a WSC, Springs Hill WSC’s access to potential water projects is limited or at a higher price than its neighboring water service providers (Green Valley SUD, Crystal Clear SUD, Maxwell SUD, County Line SUD, and East Central SUD), because as a non-profit water supply corporation, the U.S. Internal Revenue Service still views it as a private business and it cannot significantly participate in water projects paid for by tax-exempt revenue bonds (all private businesses are limited to a total 10% participation in a project). Consequently, Springs Hill WSC must participate in projects—if they even exist—funded through taxable revenue bonds, which carry a higher interest rate than tax-exempt revenue bonds. This will also be important when Springs Hill WSC needs to replace expensive water infrastructure in the future. **It is similar to getting a mortgage on a house, except that Springs Hill WSC has to pay a higher interest rate than its neighbors.** As a SUD, Springs Hill will have access to those projects and lower interest rates, which will ensure that its water rates remain as low as possible.

Question: Who can regulate and govern a SUD?

Answer: The Texas Water Code provides the Texas Commission on Environmental Quality and the Public Utility Commission of Texas the continuing right of supervision over the actions of a SUD, much like their authority over a WSC. The Board of Directors of a SUD can discuss, consider, and take action on matters regarding the operations and business of a SUD similar to the Board of Directors of a WSC.

Question: How is the Board of Directors of a SUD elected? How are people currently elected to Springs Hill Water Supply Corporation’s Board of Directors?

Answer: When a SUD is first created there will be a temporary Board of Directors consisting of individuals appointed by the legislature or the Texas Commission on

Environmental Quality, depending on how the district is created. There will be an election to confirm the creation of the district (called a “confirmation election”) and eligible voters within the boundaries of the district may vote for the initial directors. SUD Directors will serve staggered 4-year terms and the Board of Directors may hold an election to elect directors on any date determined by the Board.

Springs Hill WSC’s Board of Directors are elected at the Annual Meeting of the Membership each April. According to Section 5.01 of Springs Hill WSC’s Bylaws, the Board of Directors consists of six directors. WSC Directors serve 3-year terms and each year two Directors are elected from the membership.

The temporary Board of Directors of Springs Hill SUD will consist of the six directors that currently serve on Springs Hill WSC’s Board of Directors after the April 2023 Annual Meeting of the Membership: James “Bubba” Martin, Bernie Mueller, Debbie Magin, Keith Steffen, Mike Andrews, and Irene Moreno-Ybarra.

Question: What are the boundaries of the proposed Springs Hill SUD?

Answer: The boundaries of the proposed district will largely follow the current boundaries of Springs Hill WSC’s water Certificate of Convenience and Necessity (CCN) No. 10666, except for the areas that Springs Hill WSC is transferring to the City of Seguin’s CCN or have been decertified by the Public Utility Commission of Texas. **The boundaries of the proposed Springs Hill SUD are available on Springs Hill WSC’s website.**

Question: Will the actions, decisions, and records of Springs Hill SUD be as transparent as those of Springs Hill WSC?

Answer: Yes—there should be no difference. SUDs and WSCs are both required by State law to comply with the Texas Open Meetings Act and the Texas Public Information Act (Texas Government Code, Chapters 551 and 552). There will be no change in that regard. SUDs are also required to adhere to the Texas Public Funds Investment Act (Texas Government Code, Chapter 2256), but Springs Hill WSC is already following those laws, voluntarily, due to its loans from the Texas Water Development Board.

Question: What will happen to my membership once Springs Hill Water Supply Corporation converts into a SUD?

Answer: According to Section 8.03 of Springs Hill WSC’s Bylaws, once the corporation is dissolved, all assets of the corporation remaining after payment of any debts will be distributed among the members. *However*, Section 8.03 also states that by application for and acceptance of membership in Springs Hill WSC, each member agrees that upon dissolution of the corporation, all the assets transferred to the member will be in turn immediately transferred to the special utility district. Therefore, once Springs Hill WSC converts into a SUD, all deposits will be transferred to the district and continue to be a deposit. Also, registered voters within the boundaries of the district will still be able to vote in the election for Springs Hill SUD’s Board of Directors. House Bill 5303 states that if the creation of the district is confirmed, then the corporation will transfer all assets, debts, and contractual rights and obligations to the district.

Question: Who can serve as a director of Springs Hill SUD?

Answer: According to Texas Water Code § 65.102, to be qualified to serve as a director of a SUD, a person must be:
(1) at least 18 years old;
(2) a resident citizen of the State of Texas; *and*
(3) either own land subject to taxation (by another entity) in the district, be a user of facilities of the district, or be a qualified voter of the district.

Question: Who can vote in a SUD director’s election?

Answer: Any person who resides within the boundaries of the SUD and is a registered voter may vote in a director’s election.

Question: How is Springs Hill WSC converting to a SUD?

Answer: On December 21, 2022, Springs Hill WSC’s Board of Directors passed a resolution finding that it is necessary and desirable for Springs Hill WSC to be converted into a SUD pursuant to Chapter 65 of the Texas Water Code; and directed its General Manager and legal counsel to take steps necessary to further the purposes of the resolution, including publishing notice and filing of proposed legislation during the 88th Legislature’s regular session. Senate Bill 2575 was introduced in the Texas Senate by Senator Zaffirini and House Bill 5303 was introduced by Representative Kuempel relating to the creation of Springs Hill Special Utility District. Both the Texas Senate and the House of Representatives passed House Bill 5303 with over a two-thirds majority vote. House Bill 5303 was enacted on June 9, 2023, and will

take effect on September 1, 2023, to create Springs Hill SUD. Springs Hill SUD will have a confirmation election at the November 7, 2023 General Election to confirm the creation of the SUD. If that passes, then Springs Hill SUD will hold an election to dissolve Springs Hill WSC and transfer all of the assets and debts of the WSC to the SUD.