

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 concerning its conversion from a non-profit water supply corporation into a Texas special utility district, a political subdivision of the State of Texas. The Directors and Staff of Springs Hill Water Supply Corporation understand that there are questions out there from its membership about this potential change, and they have prepared this FAQ to answer those questions and share such 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 (codified as **Chapter 7208 of the Special Districts and Local Laws Code**), creating Springs Hill SUD, the bill also provided that it did 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 will hold that confirmation election on **May 4, 2024** (the day of the May uniform election date for political subdivisions). 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 a vote to the members of Springs Hill WSC to dissolve Springs Hill WSC.

Question: When is the Springs Hill SUD confirmation election? Wasn't it going to be in November 2023? Did this date change?

Answer: Legally, the earliest uniform election date that Springs Hill SUD may participate in is the May 4, 2024 election. A governmental entity had to call an election by August 21, 2023 if it wanted to participate in the November 7, 2023 election. Since Springs Hill SUD did not exist until September 1, 2023, and Springs Hill WSC could not call an election for Springs Hill SUD, Springs Hill SUD could participate in the November 7, 2023 election. Earlier publications stated that the confirmation election would be on November 7, 2023, but this has been corrected to **May 4, 2024**.

Question: Where do I go to vote in Springs Hill SUD’s election on May 4, 2024?

Answer: Springs Hill is located mainly in Guadalupe County and extends a bit into Wilson County. Wilson County did not plan to host any elections on May 4, 2024, so Springs Hill SUD partnered with Guadalupe County to run its election for all of the area in the proposed SUD and share the costs of its election with any other political subdivision having an election in Guadalupe County the same day.

Qualified voters that reside in Guadalupe County can vote at any of Guadalupe County’s early voting locations and election day locations in Guadalupe County.

Qualified voters that reside in Wilson County have 2 early voting locations and 1 election day location. Guadalupe County could only provide one election day location for voters from Wilson County, so the polling location was selected based on how close it is to Wilson County.

Voters can refer to Springs Hill SUD’s Notice of Election for more details about how to vote. A copy of the Notice of Election is available on Springs Hill’s website here in English and Spanish:

https://springshill.org/documents/577/Notice_of_Confirmation_and_Directors_Election_of_Springs_Hill_SUD_English_and_Spanish_.pdf

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 other types of water districts (e.g., municipal utility districts and water control & improvement districts) can levy such a tax, but Texas Water Code § 65.235 specifies that **a 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 of Springs Hill from a WSC to a SUD will not cause a rate increase. But Springs Hill does periodically review and sometimes must 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 store to buy food and other household goods, inflation has caused the costs of goods and services 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 operating 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 its regular meetings, which are 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 have eminent domain authority/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 its 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/>. Because House Bill 5303 passed with over a two-thirds vote in both the Texas Senate and House of Representatives, Springs Hill SUD was given 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' 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 its end user-customers.** 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 enormous rate increases. 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 (specifically, Green Valley SUD, Crystal Clear SUD, Maxwell SUD, County Line SUD, and East Central SUD). This is because as a non-profit water supply corporation, the U.S. Internal Revenue Service still views Springs Hill WSC 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 before impacting the bond's tax-exempt status). 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, where in this case Springs Hill WSC has to pay a higher interest rate on its water supply projects than its neighbors that are government entities.** 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 certain actions of a SUD, much like their authority over a WSC. The Texas Commission on Environmental Quality generally monitors a water district's activities and compliance with state law, certain appointments to the Board of Directors, and the issuance of bonds that finance certain district infrastructure. The Public Utility Commission generally regulates a water district's exclusive service area (called a Certificate of Convenience and Necessity or CCN) and can hear rate appeals. 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 3-year terms and the Board of Directors may hold an election to elect directors on any date determined by the Board. The Springs Hill SUD Board decided to hold elections on the first Saturday of May each year (the State’s uniform election date for May elections).

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 consists of: James “Bubba” Martin, Bernie Mueller, Debbie Magin, Keith Steffen, Mike Andrews, and Randy Smith. These are the six directors that currently serve on Springs Hill WSC’s Board of Directors after the April 2024 Annual Meeting of the Membership. The temporary directors will be replaced with the “permanent” directors after the confirmation election. Since no other individual applied for a place on the ballot or submitted an application for write-in candidacy, the only people that can be elected as a “permanent” directors will be the six temporary directors. After confirmation of the district, elections will be held each May to elect 2 directors to fill the expiring terms. Directors may also be appointed to complete an existing term if a director resigns before his or her term expires.

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 exclusive service area/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 after April 2023 (the point when Springs Hill finalized the SUD’s boundary description in HB 5303). **The boundaries of the proposed Springs Hill SUD are available on Springs Hill WSC’s website:**
https://springshill.org/documents/577/2023.05.04_Map_of_Springs_Hill_SUD.pdf

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 deposits** and there will be no distribution to the membership. 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.

Further, Texas Water Code § 49.052(a) says a person is disqualified from serving on the Board of Directors if that person:

- (1) is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the board, or the manager, engineer, attorney, or other person providing professional services to the district;
- (2) is an employee of any developer of property in the district or any director, manager, engineer, attorney, or other person providing professional services to the district or a developer of property in the district in connection with the district or property located in the district;

- (3) is a developer of property in the district;
- (4) is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district;
- (5) (A) is a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or
(B) is a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence, establishing a commercial business within the district, or qualifying as a director; or
- (6) during the term of office, fails to maintain the qualifications required by law to serve as a director.

"Developer of property in the district" means "any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto." (Texas Water Code Section 49.052(d))

Question: Who can vote in a SUD directors election? Is there any special requirement to vote in Springs Hill SUD's confirmation election?

Answer: Generally, any person who resides within the boundaries of the SUD and is a registered voter may vote in a director's election.

However, because the May 4, 2024 election is a **confirmation election** and directors election, there are certain requirements for a voter to qualify to vote in the May 4, 2024, confirmation and directors election. According to Texas Water Code § 49.1025(b), a person is not a qualified voter in a confirmation election or election held jointly with a confirmation election if the person:

- (1) on the date of the election:
 - (A) is a developer of property in the district;
 - (B) is related within the third degree of affinity or consanguinity to a developer of property in the district;
 - (C) is an employee of a developer of property in the district; or
 - (D) has resided in the district less than 30 days; or
- (2) received monetary consideration from a developer of property in the district in exchange for the person's vote.

Question: What does it mean to be related in the third degree of consanguinity or affinity?

Answer: According to Chapter 573, Subchapter B of the Texas Government Code, an individual's relatives within the 3rd degree by consanguinity are the individual's:

- (1) parent or child (relatives in the 1st degree);
- (2) brother, sister, grandparent, or grandchild (relatives in the 2nd degree); and
- (3) great-grandparent, great-grandchild, aunt or uncle (sister/brother of a parent of the individual), nephew or niece (child of a sister/brother of a parent of the individual) (relatives in the 3rd degree).

An adopted child is considered to be a child of the adoptive parent for purposes of calculating the degree of consanguinity.

A husband and wife are related to each other in the 1st degree by affinity.

For other relationships by affinity, the degree of the relationship is the same as the underlying degree by consanguinity. An individual's relatives within the third degree by affinity are:

- (1) anyone related within the third degree by consanguinity to the individual's spouse, or
- (2) the spouse of one of the people related within the third degree of consanguinity to the individual.

The ending of a marriage by divorce or death ends relationships by affinity created by the marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as the child of the marriage lives.

Question: How is Springs Hill WSC converting into 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 took effect on September 1, 2023, to create Springs Hill SUD. House Bill 5303 is codified in Chapter 7208 of the Special Districts and Local Laws Code. Springs Hill SUD will have a confirmation election on **May 4, 2024** to confirm the creation of the SUD and elect directors. If that passes, then Springs Hill WSC will hold an election to

dissolve Springs Hill WSC and transfer all of the assets and debts of the WSC to the SUD.

Question: Will Springs Hill WSC still have its Annual Meeting of the Membership and Directors Election after Springs Hill SUD's Confirmation Election?

Answer: If the creation of Springs Hill SUD is confirmed, then Springs Hill WSC will need to have a Special Meeting of the Membership to dissolve the corporation. If the creation of Springs Hill SUD is not confirmed, then Springs Hill WSC will continue to exist and function as it has in the past.
