

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(EMERGENCY)

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 832

H. P. 595

House of Representatives, February 9, 1967

Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Hanson of Solon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Create the Solon Water District.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, Solon Consumers Cooperative, a corporation existing by law and having its office at Solon in the County of Somerset and State of Maine, is presently engaged in supplying water in part of the Town of Solon, and parts of said town are without water service; and

Whereas, the existing plant and facilities of said Solon Consumers Cooperative are not adequate to meet the existing need for water of the inhabitants of said town; and

Whereas, said town is totally without a water supply to provide for domestic, public and commercial uses and for fire protection; and

Whereas, this condition constitutes a menace to the health, welfare and safety of the inhabitants of the Town of Solon; and

Whereas, it is necessary to take immediate steps to alleviate said condition, and to develop a unified plan to enlarge and improve the existing facilities within said town to provide an adequate supply of water to meet the existing as well as the expanding needs thereof of the inhabitants of said town; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health, and safety; now therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Territorial limits; name; purposes. That part of the Town of Solon within the area hereinafter described, and the inhabitants within that area, are hereby created a body politic and corporate by the name of Solon Water District for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, industrial, commercial and all lawful municipal purposes.

The area within the district is to be comprised of that part of the Town of Solon bounded and described as follows: Beginning at a point on the easterly side of the highway denominated U. S. Route 201, which said point is opposite the intersection of the southerly side of the River Road, so called, and said U. S. Route 201; thence in a straight line in a north northwesterly direction to a point on the easterly side of the road leading from Solon Village to Athens, which said point also marks the northeasterly corner of land owned or occupied by Vernon Ward; thence turning an angle to the left and crossing said road leading from Solon Village to Athens, in a west northwesterly direction in a straight line and also crossing the Brighton Road, so called, to a point, which point marks the northeast corner of land owned or occupied by Leonard Walker; thence westerly in a straight line crossing said U. S. Route 201 to the thread of the Kennebec River; thence downstream in a southerly direction, or as the course may be, by the thread of said Kennebec River to a point opposite the southeasterly corner of land owned by William E. C. Perry, Jr. and Ruth Perry on the easterly side of said River; thence easterly in a straight line to a point on the westerly side of said U. S. Route 201, which point marks the intersection of the southerly side of said River Road with said U. S. Route 201; thence continuing westerly across said U. S. Route 201 to the point of beginning.

Sec. 2. Source of supply. The said water district, for the purposes of its incorporation, is hereby authorized to take, collect, store, hold, divert, use, flow, detain and distribute water from the Kennebec River in the Town of Solon, and from any surface or underground brook, well, lake, pond, stream, spring or vein of water in said Town of Solon, and to do any and all things necessary in providing a system of water supply for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 3. Right of eminent domain conferred. The said district for the purposes of its incorporation is hereby authorized to take and hold as for public uses, by purchase or otherwise, including by right of eminent domain any lands or interests therein, or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed, and for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights-of-way and roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands. Nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public duty unless expressly authorized thereto herein, or by subsequent Act of the Legislature, or as provided in section 7 hereof.

Sec. 4. Authorized to erect dams and reservoirs and to lay pipes over public ways. Said water district is hereby authorized for the purposes of its incorporation to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. The said district is also authorized to lay in and through the streets, roads, ways and highways within the town, and across private lands therein, and to maintain, repair and replace all such pipes, mains, conduits aqueducts and fixtures as may be necessary and convenient for any of its corporate purposes, and whenever said district shall lay or install pipes, aqueducts or fixtures in any street, road, way or highway, it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be so replaced as to leave the surface in proper condition.

Sec. 5. Procedure in exercising right of eminent domain. After the original acquisition for which provision is made in section 10 and 11, the said district, in exercising from time to time any right of eminent domain conferred upon it by law or through or under the franchise of any water company by it acquired, shall file written application with the Public Utilities Commission requesting its approval of the proposed taking. Such application shall describe the property or rights to be taken, the purpose of the taking, and shall name all parties who may be interested therein. The commission shall appoint a time for a hearing near the premises, and shall require such notice as the commission may direct to be given to the persons interested, at least 14 days before the date of the hearing. The commission shall view the premises, hear the parties and shall determine how much, if any, of the property described in the petition should be taken for the reasonable purposes of the water district and for the safe, economical and efficient furnishing of an adequate water supply. In authorizing any taking, the commission may attach such reasonable terms, limitations and restrictions as justice may require. If the commission shall find that any of the property described in the application is necessary for the aforesaid purposes of the district, it shall make a certificate containing a definite description of the property to be taken and of any terms, restrictions and limitations in connection therewith, and shall furnish to the district a true copy thereof, attested by the secretary of the commission. When such copy of the certificate is filed with the clerk of courts in the county where the property lies, the property shall be deemed and treated as taken; provided that when property is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest at the termination of the life estate, such fact shall be stated in the application and the commission, in addition to the notice to the tenant for life, shall require notice by publication, in such manner as it may deem proper, to all others interested. Entry may be made on any private land prior to the filing of any such application for the purpose of making surveys, the district being responsible for any damage resulting from such entry, and possession may be had of the property described in the certificate of the commission forthwith upon the filing and recording of such certificate and hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

Sec. 6. Adjustment of damages; procedure as in laying out of highways. If any person sustaining damages by any taking as aforesaid shall not agree with

the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Somerset County, may have such damages assessed by them. The procedure and all subsequent proceedings and right of appeal therefrom shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 7. Procedure in crossing of railroads or utility rights-of-way. In case of any crossing of a railroad, or the right-of-way occupied by the transmission or distribution lines of an electric company, unless consent is given by the company owning or operating such railroad or transmission line, as to place, manner and conditions of the crossing, within 30 days after such consent is requested by such district, the Public Utilities Commission shall, upon petition setting forth a description of said premises and the reasons for said crossing, after notice given as said commission may prescribe, determine the place, manner and conditions of such crossing; and all work within the limits of such railroad location or right-of-way shall be done under the supervision and to the satisfaction of such railroad company or electric company, as the case may be, but at the expense of the district, unless otherwise ordered by said Public Utilities Commission, which shall award to said railroad or electric company any damage suffered by it occasioned by said crossing.

Sec. 8. Board of trustees. All the affairs of said district shall be managed by a board of trustees composed of 3 members, to be appointed by the municipal officers of the Town of Solon, within 30 days after the acceptance of this Act by the inhabitants of said district as hereinafter provided, but no selectman of said town shall be appointed to the board of trustees. As soon as convenient after the members of said board have been appointed, said trustees shall hold a meeting in the Town of Solon and organize by the election of a chairman and clerk from their own number, adopt a corporate seal and bylaws, and perform any other acts within the powers delegated to them by law. As necessary, they may choose agents and other needful officers who shall serve at their pleasure, and whose **compensaiton** shall be fixed by said trustees. They shall choose annually a treasurer to serve for a term of one year, fix the treasurer's salary, which shall not exceed \$500 per year, and fill vacancies in that office. The treasurer shall furnish a bond, issued in such sum and by a surety company as approved by the trustees, and the expense of securing the bond shall be borne by the district. The treasurer shall act as collector for the district. All vacancies under the jurisdiction of the board of trustees shall be promptly filled by them. Members of the board shall be eligible to any office under the board, but shall not receive compensation therefor, except as trustee, with the exception of a trustee who shall also serve in the capacity of treasurer, in which case he shall be entitled to compensation for both offices. Compensation of the trustees shall not exceed \$50 per year. The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk or clerk pro tempore. They shall make and publish an annual report, which shall also contain a report of the treasurer. The fiscal year shall be the calendar year, and the trustees shall cause an annual audit to be prepared forthwith thereafter each calendar year. At the said first meeting they may determine by agreement, or failing to agree they shall determine by lot, the term of office of each trustee so that

one shall retire each year and the term of office of the first trustee to expire shall end at the end of the municipal year of the Town of Solon following the acceptance of this Act. Thereafter, the term of office of a trustee shall expire with the end of each municipal year, and whenever the term of office of a trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of 3 years. In case any other vacancy arises from any cause it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of said Town of Solon, he vacates the office of trustee. Said trustees may procure an office and incur such expense as may be necessary.

Sec. 9. Annual meeting of district; qualification of voters of district. After the acceptance of this charter and the organization of the board, the annual meetings of the district shall be held within the district on the first Saturday of each March, immediately following the annual town meeting of the Town of Solon. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings shall state the date, time, place and the business to be transacted thereat. Ten per cent of the voters qualified to vote in such meetings shall constitute a quorum. If for any reason a legally sufficient annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 2 months from said date.

All persons resident in said district and qualified to vote for Governor under the laws of this State shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 10. Authority to purchase; right of eminent domain to take property of Solon Consumers Cooperative. The Solon Water District is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant, property, franchise, rights and privileges of the Solon Consumers Cooperative, except its cash assets and accounts receivable, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, tools and all apparatus and appliances owned by said company, whether the record title thereto is or is not in said Solon Consumer Cooperative. Said Solon Consumers Cooperative is hereby authorized to sell, transfer and convey its franchises and property to said water district.

Sec. 11. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the Town of Solon and other towns, and said Town of Solon and other towns are authorized to contract with it, for the supply of water for municipal purposes.

Sec. 12. Property tax exempt. The property of said district shall be exempt from all taxation in the Town of Solon and in any other towns where any part of its plant may be located.

Sec. 13. Authority to borrow money. For accomplishing the purposes of this Act, said water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the negotiable notes or bonds of the district,

and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of a district, in acquiring the properties and franchises of said Solon Consumers Cooperative by purchase or otherwise, of assuming and paying all mortgages, liens and encumbrances thereon as provided in the section or sections on purchase and eminent domain, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and any and all appurtenances thereto and making renewals, extensions, additions and improvements to the same, and protecting the watershed, the said water district, through its trustees, may from time to time issue bonds of the district to an amount or amounts necessary in the judgment of the trustees therefor. Said notes and bonds shall be legal obligations of said water district, which is hereby declared to be a quasi-municipal corporation within the provisions of the Revised Statutes of 1964, Title 30, section 5053, and all of the provisions of said section shall be applicable thereto. Said notes and bonds shall be legal investments for savings banks and shall be exempt from taxation.

Sec. 14. Water rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the water used by them; and the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this Act shall preclude said district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but such higher rates shall be uniform throughout the sections where they apply. Said rates shall be so established as to provide revenue for the following purposes:

1. **Current expenses.** To pay the current expenses for operating and maintaining the water system.

2. **Interest.** To provide for the payment of the interest on the indebtedness created or assumed by the district.

3. **Sinking fund.** To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are or hereafter shall be allowed to hold.

4. **Surplus.** If any surplus remains at the end of the year, it may be transferred to the sinking fund.

Sec. 15. Incidental rights and power granted. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

Sec. 16. Public Utilities Commission statutes shall govern the district. Nothing herein contained is intended to repeal or shall be construed as repealing the

whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of the Revised Statutes of 1964, Title 35, Part 1, and all Acts amendatory thereof and additional thereto.

Sec. 17. Emergency clause and local referendum for Town of Solon; meetings, how called; certificate to Secretary of State. In view of the emergency cited in the preamble, this Act shall take effect when approved, but only for the purpose of permitting its submission to the legal voters of the Town of Solon at any regular meeting, or at any special meetings called and held for the purpose not later than January 1, 1969. Such meetings shall be called, advertised and conducted according to law relating to municipal elections; provided, however, that the registrar of voters shall not be required to prepare for posting nor the town clerk to post a new list of voters. The registrar of voters shall be in session as is required for municipal elections in the Town of Solon. The subject matter of this Act shall be reduced to the following question: "Shall the Act to Incorporate the Solon Water District, passed by the 103rd Legislature, be accepted?" The voters shall indicate in the usual manner their opinion of the same.

This Act shall take effect for all the purposes thereof immediately upon its acceptance by a majority of the legal voters voting at said meeting; provided that the total number of votes cast for and against the acceptance of this Act at said meeting equals or exceeds 20% of the total vote for all candidates for Governor in said town at the next previous gubernatorial election; but failure of approval by the necessary percentage of voters at any such meeting shall not prevent a subsequent meeting or meetings to be held for said purpose on or before January 1, 1969.

The result of the vote in said district shall be declared by the municipal officers of the Town of Solon and due certificate thereof shall be filed by the clerk of said town with the Secretary of State.