

ACTS AND RESOLVES
PASSED BY THE
GENERAL ASSEMBLY
OF THE
STATE OF VERMONT

AT THE
THIRTY-FIFTH BIENNIAL SESSION
1939

SESSION COMMENCED JANUARY 4, 1939
ADJOURNED APRIL 14, 1939



PUBLISHED BY AUTHORITY

NO. 292.—AN ACT TO GRANT A CHARTER TO FIRE DISTRICT NO. 1 IN RANDOLPH.

[H. 245]

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. The polls, ratable and all other estate, included within the limits of the following bounds:

Beginning at a point on the westerly bound of the main street in Randolph Center village, leading to Brookfield, where the line between Bertha Jones' land and land owned by Randolph National Bank touches the main highway; thence westerly along the northerly line of the land owned by Randolph National Bank to the farm of M. J. O'Brien; thence southerly on the line between the farm owned by the Randolph National Bank and the land of M. J. O'Brien, to the highway leading from Randolph to Randolph Center; thence easterly on the easterly side of the highway leading from Randolph to Randolph Center, to the line dividing land owned by Lucy Parrish and land owned by Raymond Chase, which is on the south-westerly side of the last mentioned highway; thence crossing the highway to said line and thence southerly along said line to the line on property owned and used by the Vermont State School of Agriculture; thence southerly along the easterly line of the land of the Vermont State School of Agriculture, to a highway which is called the "old road" between Randolph and Randolph Center; thence easterly along the northerly line of said highway to a point opposite the line between Annie Clark's and Nellie Nutting's property; thence across the last mentioned highway and along the line between the said properties of Annie Clark and Nellie Nutting to a highway leading from Randolph Center to the so-called Fish Hill district; thence along the northerly bounds of said highway in a westerly direction to a point opposite the line between properties owned by Will Washburn and Ned Conant; thence across said highway and along the line between Will Washburn's and Ned Conant's land to the south-west corner of the so-called Adna Adams lot owned by Ned Conant; thence easterly along the southerly line of the so-called Adna Adams lot to the highway leading from Randolph Center to East Bethel; thence southerly along the westerly line of the last mentioned highway to a point opposite the southerly line of the farm owned by Warren Bradbury; thence crossing said highway to said southerly line of Warren Bradbury farm, and along the southerly line of said Bradbury farm, to the highway leading from Randolph Center to South Randolph; thence across said highway and continuing north-easterly along the northerly line of said highway to a corner between land owned by the town of Randolph and land owned by C. I.

Boyden; thence easterly along the southerly line of land owned by the Vermont State School of Agriculture, to the highway leading from Dumont Four Corners, or the Chase farm, to the W. S. Bryant farm; thence northerly along the westerly line of said highway or upon the easterly line of land owned by the Vermont State School of Agriculture, to land owned by Bernard Langevin; thence westerly along the southerly line between land owned by said Langevin and the Vermont State School of Agriculture, to Langevin's south-westerly corner; thence northerly along the line between land owned by the Vermont State School of Agriculture and land owned by Langevin and continuing upon Langevin's westerly line to the short highway leading from Randolph Center Village, between the properties of Elizabeth Holden and Jack Race, to the highway between the Bryant and Chase farms last mentioned; thence across said highway and thence westerly along the northerly line of said highway to the line between land owned by S. B. Day and W. C. Bolin; thence northerly along the westerly line of the S. B. Day property to the northwesterly corner of land owned by S. B. Day; thence easterly along the northerly line of S. B. Day's land to a piece of land owned by Bernard Langevin; thence northerly along the line between the said Bolin's land and Bernard Langevin's land; to land owned by C. I. Boyden; thence along the southerly line of the said C. I. Boyden land to the main highway from Randolph Center to Brookfield; thence northerly along the easterly line of said main highway to a point opposite the place of beginning; thence across said main highway to the place of beginning, in Randolph in the County of Orange, is hereby incorporated, and shall hereafter be known by the name of "Fire District No. 1, in Randolph"; and the inhabitants of said fire district are hereby constituted a body politic and corporate with all the usual powers incident to public corporations; to be known by the name of Fire District No. 1, in Randolph.

SEC. 2. The inhabitants of said fire district may alter the bounds of said fire district with the written consent of the persons whose residence or property will be included or excluded thereby, such written consent and alteration being first recorded in the office of the town clerk of the town of Randolph, and with the approval of the town of Randolph, as evidenced by the majority vote of said town, in town meeting duly warned therefor. If the Town of Randolph votes such approval, said consent, alteration and the vote of the town of Randolph shall be recorded in the office of the clerk of said fire district, and upon such recording, the alteration in the bounds of said fire district so made shall become effective.

SEC. 3. Said fire district shall have and is hereby granted the authority to exercise all powers relating to municipal affairs, and no enumeration of powers in this charter shall be deemed to limit or restrict the general grant of authority hereby conferred.

This grant or authority shall not be deemed to limit the authority of the legislature to alter, amend or repeal this charter; or to limit the right to hereafter pass general laws applicable alike to this and all other municipal corporations of the state; nor shall this grant of authority be deemed to limit the patronage or control of the state with respect to said fire district.

SEC. 4. Without limitation of the generality of the preceding section and the grant of the powers therein made, but as a more specific designation of some of the powers conferred upon said fire district, Fire District No. 1, in Randolph, has authority:

(a) To levy, assess and collect taxes, in order to carry out its powers; to appropriate and to borrow money, within the limits prescribed by the general laws; and to levy and collect special assessments for benefits conferred.

(b) To purchase, hold and convey real estate and to purchase, erect and keep in repair buildings and other structures for fire district purposes; to furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities, including aqueducts, reservoirs and a water supply system; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for such public utility and other fire district purposes, subject to restrictions imposed by the general law for the protection of other franchises and regulate the exercise thereof.

(c) To make local public improvements and to acquire, by condemnation or otherwise, property within its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvements, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(d) To issue and sell bonds as permitted by the laws of this state with or without specific security therefor.

(e) To purchase or leased lands within or without the corporate limits of the fire district, to lay out or widen streets, highways, lanes, commons, alleys and walks; to provide places of healthy recreation in summer or in winter, such as a skating rink, a swimming pool, a playing field, a public park; to provide for tourist camping sites, aviation landing fields and a municipal forest reserve; and for any municipal purposes whatever.

(f) To adopt and enforce within its limits building, police, sanitary, zoning, fire district planning and other similar regulations and ordinances, not in conflict with the general laws.

(g) Subject always to the laws of this state and the limitations of section 3, to enact and adopt ordinances, by-laws and other regulations respecting the following matters within the fire district limits:

I. The sale and measurement of milk and dairy products, meats, fruits, provisions, vegetables, hay, grain, petroleum products

of all kinds, wood, coal, fuels and all other articles of public necessity.

II. The construction, location, and use, and the licensing of hay scales; markets dealing with meat, fish and food stuffs; slaughter houses; groceries; restaurants and eating establishments; manufacturing establishments, inns and hotels; junk businesses; advertising bill boards; overhanging signs; awnings; lunch carts; billiard and pool rooms; all places where beverages of any kind are sold or disposed of, either at wholesale or retail; public halls, theatres; dance halls; bowling alleys; moving picture houses; all places where tobacco, cigars and cigarettes are sold or disposed of; blacksmith shops; trucking depots, stands and other trucking establishments; public garages, repair shops; brick yards; stone sheds; cattle pens; hog pens; hen coops; coal sheds; dairies; laundries; dyeing establishments; garbage plants; gas works; livery stables, oil and gasoline tanks; gasoline filling stations; private sewers and cesspools; skating rinks; stables; privies; wells; and public dumps.

III. Processions, parades, traveling showmen and their shows, clairvoyants, mendicants, fortune tellers, spiritualists, mediums, itinerant street-vendors, pawn brokers, transient retail businesses and professional and amateur sports.

IV. Vehicles used in the conveyance for hire of persons or goods; milk and cream businesses and routes; pedestrian and vehicular traffic; the parking, operation and speed of vehicles; guide posts, street signs and street safety devices.

V. Cruelty to animals; fast driving; the going at large of animals and the keeping of bees.

VI. The erection of poles, and the placing of wires, cables and pipes; the laying of sewers; the excavating of streets; the disposal of garbage, filth, refuse and animal carcasses; the throwing or dumping of ashes, wastepaper, handbills, circulars or rubbish of any sort; the planting, preservation or destruction of shade trees.

VII. The clearing, repairing and improvement of streets, highways, commons or walks, and the protection of the same from injury; the lighting of streets, highways, commons or walks; keeping a watch; the restraining of cattle, horses, sheep, swine, geese and other creatures from running at large; the planting and preservation of shade and other trees, including a municipal forest; the laying out, grading, fencing, and improving of public parks and commons.

VIII. The suppression of nuisances, bawdy-houses, gaming houses; racing pools; gambling instruments of all kinds; noisome and offensive places and occupations, loafing, obscenity, and ribaldry upon the streets of said fire district, vagrancy; riots and all breaches of the peace; pollutions of the water supply of said fire district.

SEC. 5. The annual meeting of said fire district shall be held on the third Tuesday in May, at such hour as the notice hereinafter mentioned shall state, in the fire district hall in said fire district, or at such other hour and place as said corporation shall hereafter appoint, notice of which shall be posted in two public places in said fire district at least six days previous to said meeting; which notice shall be signed by the clerk of said corporation and in case of his failure, by the prudential committee, and for want of such prudential committee, by the board of selectmen of the town of Randolph; and whenever three legal voters of said fire district shall so request by petition of said corporation, giving like notice of the same and specifying in said notice the object of said meeting; and at all fire district meetings, none but the inhabitants thereof qualified by law to vote in town meetings and who have resided for one year within the limits of said fire district shall be entitled to vote.

SEC. 6. The elective officers of the fire district shall be: a clerk, a treasurer, a collector of taxes, three auditors, a prudential committee, which shall consist of three persons who shall serve one, two and three years respectively, and a chief engineer of the fire department, together with such other officers as the public interest may require, and the laws of this state may permit. All the officers shall be elected at the annual meeting for a term of one year, except in the case of the prudential committee the term of office shall be three years, one member of the prudential committee to be elected at each annual meeting. All the fire district officers shall hold office until their successors are chosen and qualified. The fire district, at a special meeting, may fill a vacancy in any fire district office for the unexpired term. When a vacancy occurs in any office, the prudential committee forthwith by appointment in writing shall fill such vacancy until an election is had. Such appointment shall be filed by them in the office of the fire district clerk, and duly recorded by him in the book of fire district records.

SEC. 7. The chairman of the prudential committee shall preside at all fire district meetings and shall be invested with the powers of a moderator in town meeting.

SEC. 8. The clerk shall keep a record of all called meetings of the fire district and meetings of the prudential committee; shall perform the usual duties of a clerk; shall have the same power and be subject to the same liabilities as are prescribed by law for town clerks; shall have the exclusive custody of the fire district records and papers, which shall not be taken from his office unless upon the order or process of a court of competent jurisdiction; and his records, copies and certificates shall be as legally authoritative as those of town clerks, and he shall have power to certify the same.

The by-laws, rules, and ordinances of said district shall be recorded in the office of the clerk of said fire district, and the clerk's

certificate that such by-laws, rules and ordinances were adopted at an annual meeting of said fire district or at a special meeting thereof called for that purpose shall be prima facie evidence of such fact in any court in this state. And certified copies of such rules, ordinances and clerk's certificates shall also be received as evidence by all the courts in this state.

SEC. 9. The fire district treasurer shall discharge the usual duties of such office and shall have the same powers and be subject to the same liabilities as are prescribed by law for town treasurers.

SEC. 10. The collector of taxes for the fire district shall discharge the usual duties of such office, and shall have the same powers and be subject to the same liabilities as are prescribed by law for collectors of town taxes. The collector of town taxes, although he is not an inhabitant of the fire district, may be elected the collector of fire district taxes.

SEC. 11. The treasurer and collector of taxes shall give bonds for the faithful performance of their duties in such sums as the prudential committee shall direct.

SEC. 12. The auditors shall settle the accounts of the treasurer, prudential committee and collector of taxes and shall make an annual report in writing; and no account shall be allowed by such auditors without the production of proper vouchers therefor.

SEC. 13. The prudential committee shall be the governing board of the fire district and shall have the power to make, establish, amend or repeal ordinances and impose regulations not repugnant to the constitution and laws of Vermont or of the United States, or of the municipal charter, and by-laws of said fire district. And to provide for the enforcement of the same by fine, penalty, injunction, restraining order, forfeiture or any proper remedy; and shall have such other powers as stated in this charter.

The prudential committee shall have the general care of the affairs of said district; shall assess all taxes required by vote of said district and shall direct the expenditures of all moneys belonging to said fire district; and shall draw orders upon the treasurer for all moneys disbursed by them; and generally shall perform all duties legally enjoined upon them by said fire district.

SEC. 14. The prudential committee shall audit and in their discretion allow the claim of any person against the fire district for money paid or services performed, and for any debt contracted or obligation incurred by said prudential committee for and in behalf of the fire district in any manner within the proper scope of their duty. And shall draw orders therefor in favor of the person entitled upon the treasurer of said district. The prudential committee shall keep a full and true record of all orders drawn and expenditures made by them and no money shall be paid out of the treasury except upon their order.

SEC. 15. The chief engineer of the fire district and his assistants shall be ex officio fire wardens of said fire district and the duties of said engineer shall be such as may be prescribed by the by-laws and ordinances of the said fire district. The chief engineer, and in his absence, the acting chief designated by the prudential committee, shall have charge of all machines and apparatus within the district for the prevention and extinguishment of fires. On the occasion of any fire in the fire district, he shall control, as well as the regular fire department, all volunteer fire companies and may demand the assistance of any person present in order to extinguish such fire; and shall have the power to cause to be pulled down or blown up or removed any building which he may deem necessary for the suppression or to prevent the extension of such fire; and neither he nor any one obeying his orders shall be liable personally for any property damage done thereby.

The engineer may work in conjunction with the building inspector, as the prudential committee may direct, and may have the authority of the building inspector in the discretion of the prudential committee.

The engineers when on duty shall wear conspicuously on their persons a badge of office with their respective rank inscribed thereon, without which no person shall be bound to obey their direction.

SEC. 16. The prudential committee shall have the authority to appoint annually and to prescribe the duties of a chief of police and police officers; the superintendents of the district departments; a building inspector; and such other officers of said district as they may judge necessary for the welfare of the fire district; and the number of police officers, and the fire district departments, shall be within the discretion of the said prudential committee. These officers shall be qualified by taking appropriate oaths of office, and their appointments and certificates of their oaths of office, and their appointments and certificates of their oaths written thereon shall be recorded by the fire district clerk. These appointments may be revoked at the pleasure of the prudential committee and the prudential committee shall make rules and regulations governing the activity of these officers. The chief of police, before entering upon the duties of his office, shall give bond to the treasurer of the county, and said bond and a certificate showing his appointment shall be filed with and recorded by the county clerk, as in the by-laws provided.

SEC. 17. The police officers shall have the same power and authority as conservators of the peace within the said fire district as that of town constables. They may serve any criminal process for any offense against the laws of the state committed within said fire district, and may serve subpoenas for witnesses in such cases;

and for all such services they shall be entitled to receive the same fees as constables are entitled to receive.

SEC. 18. The superintendents of fire district departments shall be immediately under the supervision of the prudential committee, and shall perform the work customary to their offices.

SEC. 19. Within the fire district limits the building inspector shall have the authority to oversee the location and construction of all buildings and all repairs on buildings already constructed, and shall oversee the construction and repair of elevators, oil storage tanks, fireplaces, stoves, flues and chimneys; and all electric wiring; and may order the occupants or owner of any building or premises to repair any elevator, oil storage tank, fireplace, stove, flue, chimney, electric wiring, or other apparatus which in the opinion of said inspector is unsafe or dangerous, and may inspect the manner of manufacture and keeping of all explosives and combustibles. No building shall be located or constructed until the plans of said building have been first submitted to and approved by the building inspector, if the prudential committee, by proper ordinance, shall so order and require.

SEC. 20. The prudential committee shall meet regularly at suitable dates to enact ordinances and to transact any and all other proper business, and at such meeting, shall give audience to all complaints and protests, and shall keep a record of their proceedings to be kept by the district clerk.

SEC. 21. (a) No ordinance passed by said committee shall be enforceable until notice thereof has been posted in four public places within the bounds of said fire district, for a period of two weeks, and published in a newspaper printed in said district; or if no such newspaper be printed, in a newspaper having a current circulation within said district twice within the same period of two weeks above mentioned.

(b) If during such two weeks, a petition signed by ten or more qualified voters of the fire district be presented to the prudential committee, objecting to an ordinance so passed and published by the prudential committee, the question of the approval of such ordinance shall be submitted to an annual or special meeting of the district. And when approved by a majority vote of the said meeting, and not otherwise, the ordinance so approved shall become an ordinance of said district.

(c) If at any time subsequent to said period of two weeks for publication, a petition signed by ten or more qualified voters of the district be presented to the prudential committee requesting the repeal of any ordinances, the question of the repeal or approval of said ordinance shall be submitted to a meeting of the fire district, duly warned for that purpose. If at such meeting said ordinance be approved by a majority vote of said meeting, the ordinance so approved shall remain an ordinance. If said ordinance so voted

upon shall fail of such approval, said ordinance shall be deemed to be repealed and shall thereupon be and become null and void, and of no subsequent legal effect whatsoever. But fines and penalties imposed, judgments and decrees entered, prosecutions and legal proceedings instituted prior to the repeal of such ordinance shall not be vacated, set aside, or otherwise affected by such repeal.

SEC. 22. All regulations enacted and adopted by the inhabitants of said fire district for the government thereof, shall be known as "By-laws". All regulations passed and published by the prudential committee of said fire district for the government thereof shall be deemed to be and shall be known as "Ordinances". In the case of any inconsistency between the by-laws and the ordinances of said fire district, the by-laws shall be deemed superior and shall control as to such inconsistency. Said fire district at any annual meeting of the inhabitants thereof or any special meeting duly warned for that purpose, may make, establish, alter, amend or repeal any by-laws of such fire district.

SEC. 23. The inhabitants of said fire district shall belong to and remain inhabitants of the town of Randolph. No person being a resident or taxpayer of said fire district shall be deemed thereby incompetent or disqualified to act as judge, justice, juror, sheriff, deputy sheriff, constable, police officer or witness in any matter, cause or proceeding brought under this act in which said fire district shall be interested.

SEC. 24. (a) The prudential committee of said fire district may lay out, grade, alter, maintain and discontinue any sidewalks, sewers, water pipelines, poles and wire for electric lighting and power purposes in said fire district, whether within the borders of the laid out highway or without the same, and appraise and settle the damages thereof causing their proceedings to be recorded in the office of the clerk of the town of Randolph, provided that any person or persons aggrieved by their appraisal shall have the like opportunity for applying to the county court for the county of Orange to obtain redress, as is or may be allowed by a law to those aggrieved with the proceedings of selectmen in similar cases.

(b) Said prudential committee in making, altering or repairing sidewalks, sewers, drains, shall have power subject to the by-laws and ordinances of said fire district on giving twelve days notice to the parties interested of the time and place of hearing, to assess the owner or occupant of land or lands benefited thereby so much of the expense of making, altering or repairing the same as said prudential committee shall judge such land to be benefited thereby, not to exceed one-half of such expense. When any person shall be dissatisfied with the decision of said prudential committee in the awarding of damages for laying, making, altering or repairing any sewers, drain, sidewalk or culvert or in any assessment for benefits of the same, such persons may petition the Orange county court for a reassessment of such damages or benefits. Said

persons so aggrieved by the action of said prudential committee shall have the same right and opportunity for applying to the county court to obtain redress in the premises as is now provided by law to persons aggrieved by the action of the selectmen in like matters and proceedings.

SEC. 25. The said fire district may at any annual meeting or special meeting called for that purpose, as hereinbefore provided, lay a tax on the polls of the inhabitants of said fire district, and the ratable estate within the same, whether of residents or non-residents, for any of the purposes hereinbefore mentioned; and the prudential committee shall make out a rate bill accordingly and deliver the same to the collector who shall have the same power to collect such tax as the collector of town taxes and may in like manner sell property to satisfy the same and for want thereof, commit to jail any person against whom he has such a delinquent tax.

SEC. 26. All water rents and charges due the fire district for the use of the water supply or the district aqueduct system in case of non-payment thereof shall be and remain a lien in the nature of a tax upon the real estate so supplied with water, whether such rents or charges be charged in the first instance against the owner or occupant thereof. Such lien shall be enforceable in the same manner and to the same effect as the lien for taxes under the laws of this state.

SEC. 27. The fire district may exercise the right of eminent domain for any municipal purpose or use upon compliance with the provisions of the state statutes applicable to eminent domain proceedings.

SEC. 28. The grand list of the polls of the inhabitants and ratable estate within said fire district, as made out by the listers of the town of Randolph, shall be the grand list of said fire district, and the prudential committee shall cause a copy of said list to be made and filed in the office of the clerk of said fire district, within ten days after the same shall be completed and filed by said listers in said town clerk's office.

SEC. 29. (a) Fines, penalties and forfeitures up to and including two hundred dollars for each breach of an ordinance or by-law, may be established by the prudential committee, or by a properly warned fire district meeting.

These fines, penalties and forfeitures, may be recovered in an action of tort brought in the name of the fire district, and in any such action a general complaint relying on the ordinance or the by-law shall be sufficient.

The process may issue either against the body or the property of the defendant, and if the defendant is found guilty and if it is found by the court that the cause of action arose from his wilful or malicious act or neglect, it shall so adjudge, and shall further adjudge that he be confined in close jail, and may issue execution

against his body with a certificate of such findings endorsed thereon ; and such execution with such certificate thereon shall have the same effect as an execution issued on a judgment founded upon tort having a like certificate endorsed thereon.

(b) Any person refusing to comply with any fire district ordinance or by-law relating to his business, may be enjoined by a proper action in chancery brought in the name of the fire district, from continuing such business in violation of such ordinance or by-law, and in any such action a bill relying on the ordinance or by-law shall be sufficient.

(c) Nothing in this section shall be construed to prevent the fire district from having and exercising such other powers as may be proper to enforce obedience of its ordinances and by-laws and to punish violations thereof.

SEC. 30. All violations of the fire district ordinances and by-laws may be prosecuted in behalf of the fire district by its attorneys, or police officers, or by any other duly authorized prosecuting officer, before any justice of the peace of the county of Orange, or any municipal court which may hereafter be established in the county of Orange having jurisdiction in the town of Randolph.

SEC. 31. The village may at any properly warned fire district meeting vote to accept a fire district manager, who shall have the same power and be subject to the same liabilities as town managers, as provided by the statutes of the state.

SEC. 32. Any prior section or subdivision of this act, shall become operative only when approved by a majority of the legal voters residing in the said incorporated district, present and voting in a meeting duly warned and held for that purpose ; always providing that the rejection of any section or any subdivision thereof shall not be considered to invalidate the portions of the act accepted by the corporation ; and that each subdivision of each section shall be voted upon separately.

SEC. 33. The selectmen of the town of Randolph shall warn a meeting to be held on the third Tuesday in May, 1939, at a public place within the proposed fire district, as the said selectmen shall direct, at ten o'clock in the forenoon ; said warning to contain in substance an article "To see if the voters of the proposed fire district will vote to accept this act". The meeting so warned shall be presided over by a selectman of the town of Randolph ; if this act is adopted, in part or in whole, officers shall be elected who shall proceed to discharge their duties of their office forthwith upon taking the oath.

SEC. 34. Sections 32, 33 and 34 of this act shall take effect from their passage. So much of the rest of this act as shall be approved by majority vote pursuant to the provisions of section 32 shall become effective from the time of such approval.

Approved March 18, 1939.