SB 319 INTRODUCED BY MAZUREK, SPAETH EMPLOYMENT OF WATER COMMISSIONER EXEMPT FROM WORKERS' COMPENSATION COVERAGE

2/11	INTRODUCED		
2/11	REFERRED TO LABOR & EMPLOYMENT RELA	TIONS	
2/19	HEARING		
2/19	COMMITTEE REPORTBILL PASSED		
2/21	2ND READING PASSED	47	2
2/23	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/24	REFERRED TO BUSINESS & LABOR		
3/13	HEARING		
3/13	TABLED IN COMMITTEE		

INTRODUCED BY Mayney Space 2

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT EMPLOYMENT OF A PERSON PERFORMING SERVICES AS A WATER COMMISSIONER IS EXEMPT FROM WORKERS' COMPENSATION UNLESS THE EMPLOYER ELECTS COVERAGE: AMENDING SECTION 39-71-401, MCA: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-401, MCA, is amended to read: "39-71-401. Employments covered and employments exempted. (1) Except as provided in subsection (2) of this section, the Workers' Compensation Act applies to all employers as defined in 39-71-117 and to all employees as defined in 39-71-118. An employer who has any employee in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3. Every employee whose employer is bound by the Workers' Compensation Act is subject to and bound by the compensation plan that has been elected by the employer.

(2) Unless the employer elects coverage for these employments under this chapter and an insurer allows such an election, the Workers' Compensation Act does not apply to

1	any	ο£	the	following	employments
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- (a) household and domestic employment;
- 3 (b) casual employment as defined in 39-71-116(3) except employment of a volunteer under 67-2-105; 4
- (c) employment of members of an employer's family 5 dwelling in the employer's household;
- (d) employment of sole proprietors or working members of a partnership other than those who consider themselves or 8 hold themselves out as independent contractors and who are 9 1.0 not contracting for agricultural services to be performed on 11 a farm or ranch, or for broker or salesman services 12 performed under a license issued by the board of realty 13 regulation, or for services as a direct seller engaged in the sale of consumer products to customers primarily in the 15 home;
- 16 (e) employment for which a rule of liability for 17 injury, occupational disease, or death is provided under the 18 laws of the United States:
- 19 (f) any person performing services in return for aid 20 or sustenance only, except employment of a volunteer under 21 67-2-105;
- 22 (g) employment with any railroad engaged in interstate 23 commerce, except that railroad construction work shall be 24 in and subject to the provisions of this chapter; included
- 25 (h) employment as an official, including a timer,



referee, or judge, at a school amateur athletic event, unless the person is otherwise employed by a school district:

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- 4 <u>(i) employment of a person performing services as a</u> 5 water commissioner appointed under 85-5-101.
- 6 (3) A sole proprietor or working member 7 partnership who holds himself out or considers himself an 8 independent contractor and who is not contracting for agricultural services to be performed on a farm or ranch, or 9 for broker or salesman services performed under a license 10 issued by the board of realty regulation, or for services as 11 12 a direct seller engaged in the sale of consumer products to customers primarily in the home must elect to be bound 13 14 personally and individually by the provisions of compensation plan No. 1, 2, or 3, but he may apply to the 15 16 division for an exemption from the Workers' Compensation Act 17 for himself. The application must be made in accordance with 18 the rules adopted by the division. The division may deny the application only if it determines that the applicant is not 19 an independent contractor. When an application is approved 20 21 by the division, it is conclusive as to the status of an 22 independent contractor and precludes the applicant from 23 obtaining benefits under this chapter.
- 24 (4) Each employer shall post a sign in the workplace 25 at the locations where notices to employees are normally

- posted, informing employees about the employer's current 2 provision of compensation insurance. A workplace is any location where an employee performs any work-related act in the course of employment, regardless of whether the location is temporary or permanent, and includes the place of business or property of a third person while the employer has access to or control over such place of business or property for the purpose of carrying on his usual trade, business, or occupation. The sign will be provided by the division, distributed through insurers or directly by the 10 division, and posted by employers in accordance with rules 11 adopted by the division. An employer who purposely or 12 13 knowingly fails to post a sign as provided in this subsection is subject to a \$50 fine for each citation." 14
- NEW SECTION. Section 2. Extension of authority. Any existing authority of the division of workers' compensation to make rules on the subject of the provisions of this act is extended to the provisions of this act.
- NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

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APPROVED BY COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

1	BILL NO. 3/9
2	INTRODUCED BY Marque Space
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT
5	EMPLOYMENT OF A PERSON PERFORMING SERVICES AS A WATER
6	COMMISSIONER IS EXEMPT FROM WORKERS' COMPENSATION COVERAGE
7	UNLESS THE EMPLOYER ELECTS COVERAGE; AMENDING SECTION
8	39-71-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 39-71-401, MCA, is amended to read:
1.2	"39-71-401. Employments covered and employments
13	exempted. (1) Except as provided in subsection (2) of this
14	section, the Workers' Compensation Act applies to all
15	employers as defined in 39-71-117 and to all employees as
16	defined in 39-71-118. An employer who has any employee in
17	service under any appointment or contract of hire, expressed
18	or implied, oral or written, shall elect to be bound by the
19	provisions of compensation plan No. 1, 2, or 3. Every
20	employee whose employer is bound by the Workers'
21	Compensation Act is subject to and bound by the compensation
22	plan that has been elected by the employer.
23	(2) Unless the employer elects coverage for these
24	employments under this chapter and an insurer allows such an

election, the Workers' Compensation Act does not apply to

(a)	househol	d and domes	tic emp	loymen	t;		
(b)	casual	employment	as de	efined	in	39-71-	116(3)
except em	ployment	of a volunt	eer unde	er 67-	2-105;		
(c)	employme	nt of memb	ers of	an	employe	er's	family

any of the following employments:

dwelling in the employer's household;

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- (d) employment of sole proprietors or working members of a partnership other than those who consider themselves or hold themselves out as independent contractors and who are not contracting for agricultural services to be performed on a farm or ranch, or for broker or salesman services performed under a license issued by the board of realty regulation, or for services as a direct seller engaged in the sale of consumer products to customers primarily in the home;
- 16 (e) employment for which a rule of liability for 17 injury, occupational disease, or death is provided under the 18 laws of the United States;
- 19 (f) any person performing services in return for aid 20 or sustenance only, except employment of a volunteer under 21 67-2-105:
- 22 (g) employment with any railroad engaged in interstate 23 commerce, except that railroad construction work shall be 24 included in and subject to the provisions of this chapter;
 - (h) employment as an official, including a timer,

- 1 referee, or judge, at a school amateur athletic event,
 2 unless the person is otherwise employed by a school
 3 district=;
- 4 (i) employment of a person performing services as a water commissioner appointed under 85-5-101.
- 6 (3) A sole proprietor or working member of a partnership who holds himself out or considers himself an 7 8 independent contractor and who is not contracting for 9 agricultural services to be performed on a farm or ranch, or for broker or salesman services performed under a license 10 issued by the board of realty regulation, or for services as 11 a direct seller engaged in the sale of consumer products to 12 customers primarily in the home must elect to be bound 13 personally and individually by the provisions of 14 compensation plan No. 1, 2, or 3, but he may apply to the 15 division for an exemption from the Workers' Compensation Act 16 for himself. The application must be made in accordance with 17 the rules adopted by the division. The division may deny the 18 application only if it determines that the applicant is not 19 an independent contractor. When an application is approved 20 by the division, it is conclusive as to the status of an 21 22 independent contractor and precludes the applicant from 23 obtaining benefits under this chapter.
- 24 (4) Each employer shall post a sign in the workplace 25 at the locations where notices to employees are normally

posted, informing employees about the employer's current provision of compensation insurance. A workplace is any location where an employee performs any work-related act in 4 the course of employment, regardless of whether the location 5 is temporary or permanent, and includes the place of business or property of a third person while the employer 6 7 has access to or control over such place of business or property for the purpose of carrying on his usual trade, 9 business, or occupation. The sign will be provided by the 10 division, distributed through insurers or directly by the division, and posted by employers in accordance with rules 11 12 adopted by the division. An employer who purposely or 13 knowingly fails to post a sign as provided in this subsection is subject to a \$50 fine for each citation." 14

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is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

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- (c) employment of members of an employer's familydwelling in the employer's household;
- 7 (d) employment of sole proprietors or working members of a partnership other than those who consider themselves or 9 hold themselves out as independent contractors and who are 10 not contracting for agricultural services to be performed on 11 a farm or ranch, or for broker or salesman services 12 performed under a license issued by the board of realty 13 regulation, or for services as a direct seller engaged in 14 the sale of consumer products to customers primarily in the 15 home:
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- 19 (f) any person performing services in return for aid 20 or sustenance only, except employment of a volunteer under 21 67-2-105;
 - (g) employment with any railroad engaged in interstate commerce, except that railroad construction work shall be included in and subject to the provisions of this chapter;
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