

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

2/11	INTRODUCED		
2/11	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/19	HEARING		
2/19	COMMITTEE REPORT--BILL 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		

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
5 water commissioner appointed under 85-5-101.

6 (3) A sole proprietor or working member of a
7 partnership who holds himself out or considers himself an
8 independent contractor and who is not contracting for
9 agricultural services to be performed on a farm or ranch, or
10 for broker or salesman services performed under a license
11 issued by the board of realty regulation, or for services as
12 a direct seller engaged in the sale of consumer products to
13 customers primarily in the home must elect to be bound
14 personally and individually by the provisions of
15 compensation plan No. 1, 2, or 3, but he may apply to the
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
19 application only if it determines that the applicant is not
20 an independent contractor. When an application is approved
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

1 posted, informing employees about the employer's current
2 provision of compensation insurance. A workplace is any
3 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
6 business or property of a third person while the employer
7 has access to or control over such place of business or
8 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
11 division, and posted by employers in accordance with rules
12 adopted by the division. An employer who purposely or
13 knowingly fails to post a sign as provided in this
14 subsection is subject to a \$50 fine for each citation."

15 NEW SECTION. Section 2. Extension of authority. Any
16 existing authority of the division of workers' compensation
17 to make rules on the subject of the provisions of this act
18 is extended to the provisions of this act.

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

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

1 Senate BILL NO. 319
2 INTRODUCED BY Mazuch Speth
3

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."
9

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

11 Section 1. Section 39-71-401, MCA, is amended to read:

12 "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
25 election, the Workers' Compensation Act does not apply to

- 1 any of the following employments:
2 (a) household and domestic employment;
3 (b) casual employment as defined in 39-71-116(3)
4 except employment of a volunteer under 67-2-105;
5 (c) employment of members of an employer's family
6 dwelling in the employer's household;
7 (d) employment of sole proprietors or working members
8 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;
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;
25 (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;

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 5 water commissioner appointed under 85-5-101.

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- 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
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- 13 regulation, or for services as a direct seller engaged in
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