

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE SAFETY OF IRRIGATION
5 STRUCTURES AND FACILITIES; REVISING LIMITS OF LIABILITY FOR OWNERS OR OPERATORS OF
6 IRRIGATION STRUCTURES AND FACILITIES; AND AMENDING SECTIONS 85-7-2211 AND 85-7-2212, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 85-7-2211, MCA, is amended to read:

11 **"85-7-2211. Irrigation ditches -- duties relating to safety.** An irrigation district or private person or
12 entity owning or operating irrigation diversions, aqueducts, canals, ditches, drains, flumes, headgates, siphons,
13 or other water conveyance structures or infrastructure must keep ~~irrigation ditches~~ these structures and
14 infrastructure in good general repair and condition, ~~but for.~~ For the purpose of protecting persons and property
15 from injury or damage, the irrigation district, private person, or entity has no duty to:

- 16 (1) erect fences or other security measures;
- 17 (2) install grates or other protective devices where ~~a ditch~~ conveyed water goes underground or under
18 a bridge or other object; or
- 19 (3) prevent access to ~~ditches~~ water conveyance structures or facilities by persons or animals."

20
21 **Section 2.** Section 85-7-2212, MCA, is amended to read:

22 **"85-7-2212. Irrigation ditches -- ~~nonliabilities~~ limits of liability.** An irrigation district, ~~or~~ private person,
23 or entity owning or operating irrigation diversions, aqueducts, canals, ditches, drains, flumes, headgates, siphons,
24 or other water conveyance structures or infrastructure is not liable for:

- 25 (1) personal injury or property damage resulting from floodwaters caused by rainfall, ~~or~~ other weather
26 conditions, ~~or~~ acts of nature;
- 27 (2) personal injury or property damage occurring on another's land and caused by water seepage that
28 existed or began before the injured person first arrived on or obtained an interest in the land or before the
29 damaged property was first placed on the land, if the seepage does not carry toxic chemicals onto the land;
- 30 (3) injury to a person or property while, without authorization of the district or private person or entity,

1 the person or property is on land or water controlled by the district or private person or entity, unless the irrigation
2 district or private person or entity engaged in willful or wanton misconduct; or

3 (4) death of a person or animal from a drowning or other causes, unless the irrigation district or private
4 person or entity was grossly negligent or engaged in willful or wanton misconduct."

5
6 **NEW SECTION. Section 3. Two-thirds vote required.** Because [section 2] limits governmental liability,
7 Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of
8 the legislature for passage.

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