2024 South Dakota Legislature

House Bill 1128

HOUSE AGRICULTURE AND NATURAL RESOURCES ENGROSSED

Introduced by: ***Representative*** *Gross*

An Act to require a zoning authority to determine that a well is an established well that has not been abandoned in making a permitting decision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That a NEW SECTION be added to chapter 11-2:

When a well is at issue in making a determination for the implementation of a zoning ordinance requirement, the zoning authority must determine whether the well is an established well that has not been abandoned.

A well that is either abandoned or not established, or both, must not be used as a basis for denial of the zoning determination.

Terms used in this section mean:

(1) "Abandoned well," a well in such a state of disrepair that its original purpose cannot reasonably be achieved or that has not been used for water production in the past two calendar years;

(2) "Established well," a well for which:

(a) A well completion report is on file with the Department of Agriculture and Natural Resources; or

(b) The owner of the well files a sworn affidavit with the Register of Deeds on the legal description of the property in the county in which the well is located affirming that the well has been used for water production for more than one week in each of the two calendar years preceding submission of the sworn affidavit; and

(3) "Well," an artificial excavation or opening in the ground, made by means of digging, boring, drilling, jetting, or by any other artificial method, for the purpose of obtaining groundwater.