

State Government  
Dieleman, Chair  
Schwengels  
Gettings

SENATE FILE 120

BY DIELEMAN and SCHWENGELS

**50** JAN 20 1903

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the purchase of coal by the state or a  
2 political subdivision of the state.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 72.1, Code 1983, is amended to read  
2 as follows:

3 72.1 CONTRACTS FOR EXCESS EXPENDITURES--EXCEPTION FOR  
4 COAL. Officers empowered to expend, or direct the expenditure  
5 of, public money of the state shall not make any contract  
6 for any purpose which contemplates an expenditure of ~~such~~  
7 money in excess of that authorized by law. However, the state  
8 or an agency of the state may enter into a contract of not  
9 exceeding ten years in duration for the purchase of coal  
10 produced in this state to be used in facilities under the  
11 jurisdiction of the state or the state agency. If the coal  
12 is purchased outside the state, the contract for the purchase  
13 of coal shall not exceed one year in duration. The execution  
14 of the contract shall be contingent upon appropriations by  
15 the general assembly in sufficient amounts to meet the terms  
16 of the contract.

17 Sec. 2. Section 73.1, Code 1983, is amended to read as  
18 follows:

19 73.1 PREFERENCE AUTHORIZED--CONDITIONS. Every commission,  
20 board, committee, officer or other governing body of the  
21 state, or of any county, township, school district or city,  
22 and every person acting as contracting or purchasing agent  
23 for any ~~such~~ commission, board, committee, officer or other  
24 governing body shall use only those products and provisions  
25 ~~grown and coal-produced~~ within the state ~~of Iowa~~, when they  
26 are found in marketable quantities in the state and are of  
27 a quality reasonably suited to the purpose intended, and can  
28 be secured without additional cost over foreign products or  
29 products of other states.

30 Sec. 3. Section 73.2, Code 1983, is amended to read as  
31 follows:

32 73.2 ADVERTISEMENTS FOR BIDS--FORM. All requests ~~hereafter~~  
33 made for bids and proposals for materials, products, supplies,  
34 provisions and other needed articles to be purchased at public  
35 expense, shall be made in general terms and by general

1 specifications and not by brand, trade name or other individual  
2 mark. All such requests and bids shall contain ~~therein~~ a  
3 paragraph in easily legible print, reading as follows:

4 "By virtue of statutory authority, a preference will be  
5 given to products and provisions grown ~~and coal produced~~  
6 within the state ~~of Iowa.~~"

7 Sec. 4. Section 73.6, Code 1983, is amended to read as  
8 follows:

9 73.6 IOWA COAL.

10 1. It ~~shall be~~ is unlawful for any commission, board,  
11 county officer or other governing body of the state, or of  
12 any county, township, school district or city, to purchase  
13 or use any coal, except that mined or produced within the  
14 state by producers who are, at the time ~~such~~ the coal is  
15 purchased and produced, complying with all the workers'  
16 compensation and mining laws of the state. ~~The provisions~~  
17 ~~of this section shall~~

18 2. However, subsection 1 is not be applicable if coal  
19 produced within the state cannot be procured of a quantity  
20 or quality reasonably suited to the needs of ~~such~~ the  
21 purchaser, nor if the equipment now installed is not reasonably  
22 adapted to the use of coal produced within the state, ~~nor~~  
23 ~~if the use of coal produced within the state would materially~~  
24 ~~lessen the efficiency or increase the cost of operating such~~  
25 ~~purchaser's heating or power plant,~~ nor to mines employing  
26 miners not now under the ~~provisions of the~~ workers'  
27 compensation Act or who permit the miners to work in individual  
28 units in their own rooms. Subsection 1 is not applicable  
29 if the bid for coal produced in this state is more than ten  
30 percent greater than any responsible bid for coal produced  
31 outside the state.

32 Sec. 5. Section 73.7, Code 1983, is amended to read as  
33 follows:

34 73.7 BIDS AND CONTRACTS. Before any coal user ~~of coal~~  
35 designated in section 73.6, whose annual consumption of coal

1 exceeds, in delivered value, ~~the sum of~~ three hundred dollars,  
2 ~~shall purchase any~~ purchases coal, it shall make request for  
3 bids for ~~such~~ coal by advertising in a newspaper published  
4 in the county in which the purchaser has its principal office,  
5 and ~~such~~ the advertisement shall, ~~among other things,~~ state  
6 the date, time and place ~~such~~ the bids shall be received,  
7 which date and time shall not be less than fifteen days after  
8 publication, and the advertisement shall contain the  
9 approximate quantity and description of coal to be purchased,  
10 ~~and the.~~ All bids shall consider storage, related handling  
11 costs, and all costs of delivery to the site of the generating  
12 plant. The bids for ~~such~~ coal shall be opened in public at  
13 the time, date and place indicated in the ~~said~~ advertisement  
14 and, unless the purchasing body ~~shall determine~~ determines  
15 that the general good of the state, including the best  
16 interests of the taxpayer and the employment of labor, and  
17 the adaptability of the coal offered, ~~or the efficiency and~~  
18 ~~cost of operation of purchaser's plant~~ makes it advisable  
19 to do otherwise, and unless the cost of procuring coal produced  
20 in this state is more than ten percent greater than any  
21 responsible bid for coal produced outside the state the  
22 contract shall be let to the lowest responsible bidder, ~~but~~  
23 ~~any and~~ offering Iowa coal. However, all bids may be rejected,  
24 ~~however, if.~~ If all bids are rejected, then an advertisement  
25 for bids shall again be made ~~as hereinafore provided.~~ After  
26 any bid is accepted, a written contract shall be entered into  
27 and the successful bidder shall furnish a good and sufficient  
28 bond with qualified sureties for the faithful performance  
29 of the contract. Any contract for purchase of coal provided  
30 for in sections 73.6 to 73.9 may contain the provision that  
31 the purchaser may, in the event of an emergency, purchase  
32 coal elsewhere without advertising for bids in any year, for  
33 not more than ten percent of ~~said~~ the purchaser's annual coal  
34 requirements.

35 Sec. 6. Section 73.8, Code 1983, is amended to read as

1 follows:

2 73.8 NAME OF PRODUCER AND MINE. No bid for coal produced  
3 ~~in Iowa~~ which comes under the provisions of section 73.7,  
4 shall be considered unless it states the name of the producer  
5 and gives the location of the mine from which the coal is  
6 to be produced and the producer and the mine are complying  
7 with the mining laws of the state in which the coal is mined  
8 and the federal Surface Mining Control and Reclamation Act  
9 of 1977 and federal regulations issued pursuant to that Act.

10 Sec. 7. Section 73.9, Code 1983, is amended to read as  
11 follows:

12 73.9 VIOLATIONS--REMEDY. Any contract entered into or  
13 carried out in whole or in part, in violation of ~~the provisions~~  
14 ~~of~~ sections 73.6 to 73.8 shall be void and ~~such~~ the contract  
15 or any claim growing out of the sale, delivery or use of the  
16 coal specified therein, shall be unenforceable in any court.  
17 In addition to any other ~~proper-party-or-parties~~ person  
18 adversely affected, any unsuccessful bidder at a letting  
19 provided for in ~~said~~ sections ~~shall have the right to~~ 73.6  
20 to 73.8 may maintain an action in equity to prevent the  
21 violation of ~~the terms of said~~ those sections.

22 EXPLANATION

23 The bill provides that contracts for the purchase of coal  
24 mined outside the state shall not exceed one year in duration.  
25 In bids submitted, the bidder must identify the location and  
26 mine from which the coal will be delivered. The bidder must  
27 also certify that the coal producer and the mine are complying  
28 with the mining laws of the state in which the mine is located  
29 and the federal Surface Mining Control and Reclamation Act  
30 of 1977. The bill also provides that all bids shall consider  
31 related costs and delivery costs to the generating facility  
32 which will use the coal. The bill takes effect July 1  
33 following enactment.

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