

By: Representatives King, Davis

To: Public Buildings,
Grounds and Lands;
Appropriations

HOUSE BILL NO. 1367

1 AN ACT TO REQUIRE EVERY CONTRACT MADE BY THE STATE FOR NEW
2 CAPITAL PROJECTS WHICH COST MORE THAN TWO MILLION DOLLARS AND
3 INVOLVE MECHANICAL OR ELECTRICAL SYSTEMS TO HAVE A MANUAL SUPPLIED
4 BY THE CONTRACTOR EXPLAINING THE DESIGN CONCEPT AND COVERING
5 PROPER OPERATION AND MAINTENANCE; TO REQUIRE HEADS OF STATE
6 AGENCIES, IN COOPERATION WITH THE BUREAU OF BUILDING, GROUNDS, AND
7 REAL PROPERTY MANAGEMENT, TO DEVELOP AN ANNUAL FIVE-YEAR SCHEDULED
8 MAINTENANCE PLAN FOR CAPITAL ASSETS UNDER THE JURISDICTION OF THE
9 AGENCY; TO PRESCRIBE THE CONTENTS OF THE SCHEDULED MAINTENANCE
10 PLAN; TO REQUIRE AN EVALUATION OF THE SCHEDULED MAINTENANCE PLAN
11 TO BE PERFORMED ONCE EVERY FIVE YEARS; TO PRESCRIBE THE CONTENTS
12 OF THE EVALUATION; TO PROVIDE THAT A SCHEDULED MAINTENANCE PLAN OR
13 AN EVALUATION OF THE PLAN SHALL NOT BE ADMISSIBLE IN ANY ACTION OR
14 PROCEEDING AGAINST THE STATE, ANY AGENCY, POLITICAL SUBDIVISION OR
15 OFFICER OF THE STATE TO PROVE THE EXISTENCE OF A PARTICULAR DEFECT
16 OR DANGEROUS CONDITION IN ANY CAPITAL ASSET; AND FOR RELATED
17 PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 SECTION 1. (1) Every contract made by or on behalf of the
20 state or any agency or official of the state for new capital
21 projects or programs which cost more than Two Million Dollars
22 (\$2,000,000.00), and which involve plumbing, electrical, heating
23 and ventilating or other mechanical or electrical systems, shall
24 require that a comprehensive manual be supplied by the contractor
25 explaining the design concept and covering the proper operation
26 and maintenance of the entire system. The manual shall be
27 designed, using explanatory diagrams as needed, to cover both
28 day-to-day operations and emergencies so as to insure proper care
29 and maximum useful life of the project. This contract provision
30 may be waived whenever the necessary operation and maintenance
31 information is available from other sources, is not necessary due
32 to the nature of the asset, is already available for a similar
33 project, or is provided free by a supplier and covers the

34 maintenance needs of the entire system.

35 (2) The head of each state agency, in cooperation with the
36 Bureau of Building, Grounds and Real Property Management, shall
37 develop an annual five-year scheduled maintenance plan, by asset
38 or asset group, for the capital assets under the jurisdiction of
39 the agency. The scheduled maintenance plan, where applicable,
40 shall be designed to meet or exceed engineering or architectural
41 standards for the assets. The scheduled maintenance plan shall
42 include:

43 (a) A description of the age and current condition of
44 the capital assets, by asset or asset group;

45 (b) The establishment of goals for the condition of the
46 capital assets, by asset or asset group, for each of the next five
47 (5) fiscal years; and

48 (c) A description of the maintenance activities and
49 projected levels of funding necessary for the next five (5) fiscal
50 years to achieve the goals for the condition of the capital
51 assets, by asset or asset group.

52 The scheduled maintenance plan may be developed in
53 coordination with and as part of a capital plan prepared pursuant
54 to other provisions of law.

55 (3) The head of each state agency shall cause to be
56 performed once every five (5) years an independent evaluation of
57 the agency's scheduled maintenance plan. The evaluation shall be
58 conducted by individuals with expertise in the field of
59 maintenance and maintenance planning, and shall be submitted to
60 the Governor and to the chairmen of the Senate Finance Committee
61 and the House Ways and Means Committee. The evaluation shall
62 include, but not be limited to:

63 (a) An assessment of the adequacy of the scheduled
64 maintenance of the capital assets under the jurisdiction of the
65 agency;

66 (b) Recommendations for any improvements or
67 technological advances in the way in which the agency should
68 maintain the capital assets under its jurisdiction; and

69 (c) An assessment as to whether the level or allocation
70 of funding for scheduled maintenance is sufficient.

71 (4) A scheduled maintenance plan or evaluation of the plan
72 required by this section shall not be admissible in any action or
73 proceeding in which the state or any of its departments, agencies
74 or authorities, or any municipal corporation or other political
75 subdivision, or any officer or employee thereof, is a party, to
76 prove the existence of a particular defect or dangerous condition
77 in any capital asset or portion of a capital asset. The state or
78 any of its departments, agencies or authorities, or any municipal
79 corporation or other political subdivision, or any officer or
80 employee thereof shall not be held liable for damages as a result
81 of a failure to comply with any scheduled maintenance plan
82 required by this section or for failure to take any action as a
83 result of any evaluation of the plan.

84 SECTION 2. This act shall take effect and be in force from
85 and after July 1, 1999.