



A Summary Report on

# Senate Bill 1289 Provisions Related to the Water Development Board's Financial Assistance of Construction Projects

December 28, 2018

Members of the Legislative Audit Committee:

The Water Development Board (Board) asserted in their December 1, 2018, report to the State Auditor's Office that enactment of Senate Bill 1289 (85th Legislature, Regular Session), relating to the purchase of iron and steel products made in the United States, resulted in immediate changes to five of the Board's state financial assistance programs. The Board identified the following changes: updated bid document requirements, removal of manufactured goods and electrical components applicability, and new exemption and waiver processes. In addition, the Board reported that beginning May 1, 2019, changes for financial assistance under the State Water Implementation Fund for Texas (SWIFT) program will take effect.

The Board also reported no expected impacts by the enactment of Senate Bill 1289 for its two federal financial assistance programs due to existing federal American Iron and Steel requirements<sup>1</sup>. The Board intends to publish this report on its website at [www.twdb.texas.gov](http://www.twdb.texas.gov).

The report included a list of political subdivisions<sup>2</sup> (entities) who received funding for projects<sup>3</sup> under the Texas Water Code, Chapters 15, 16, or 17, during fiscal year 2017. The Board relied on limited responses to a survey to determine the impacts to these entities and only reported iron and steel product information for these limited number of funding recipients (see text box on page 3).

## Reported Impacts of Senate Bill 1289 on Political Subdivisions

The Board sent a survey to 70 political subdivisions (entities) who received funding for 83 projects from the Board during fiscal year 2017, to determine the impact of Senate Bill 1289. Of those 70 entities, 20 (29 percent) entities representing 27 projects responded, all stating they experienced no impact related to

### Senate Bill 1289 Impacts

The 85th Legislature enacted Senate Bill 1289, which made changes to Texas Government Code, Section 2252.2025, requiring the Water Development Board (Board) to submit a report electronically to the State Auditor's Office no later than December 1, 2018 on all contracts for construction of a project that received financial assistance under the Texas Water Code, Chapters 15, 16, or 17, during fiscal year 2017. In addition, the statute requires the State Auditor's Office to summarize those results and submit a report to the Legislature by January 1, 2019.

The statute also specifies that the Board must include in its report the impacts on a political subdivision that has obtained or applied for financial assistance from the Board under the Texas Water Code, Chapters 15, 16, or 17.

<sup>1</sup> The Drinking Water State Revolving Fund and Clean Water State Revolving Fund comply with American Iron and Steel requirements under United States Code, Title 42, Section 300j-12(a)(4), and United States Code, Title 33, Section 1388, respectively.

<sup>2</sup> Texas Government Code, Section 2252.201, defines a "political subdivision" as a county, municipality, municipal utility district, water control and improvement district, special utility district, and other types of water districts.

<sup>3</sup> Texas Government Code, Section 2252.201, defines a "project" as a contract between a governmental entity and another person, including a political subdivision, to: (A) construct, remodel, or alter a building, a structure, or infrastructure; (B) supply a material for a project; or (C) finance, refinance, or provide money from funds administered by a governmental entity for a project.

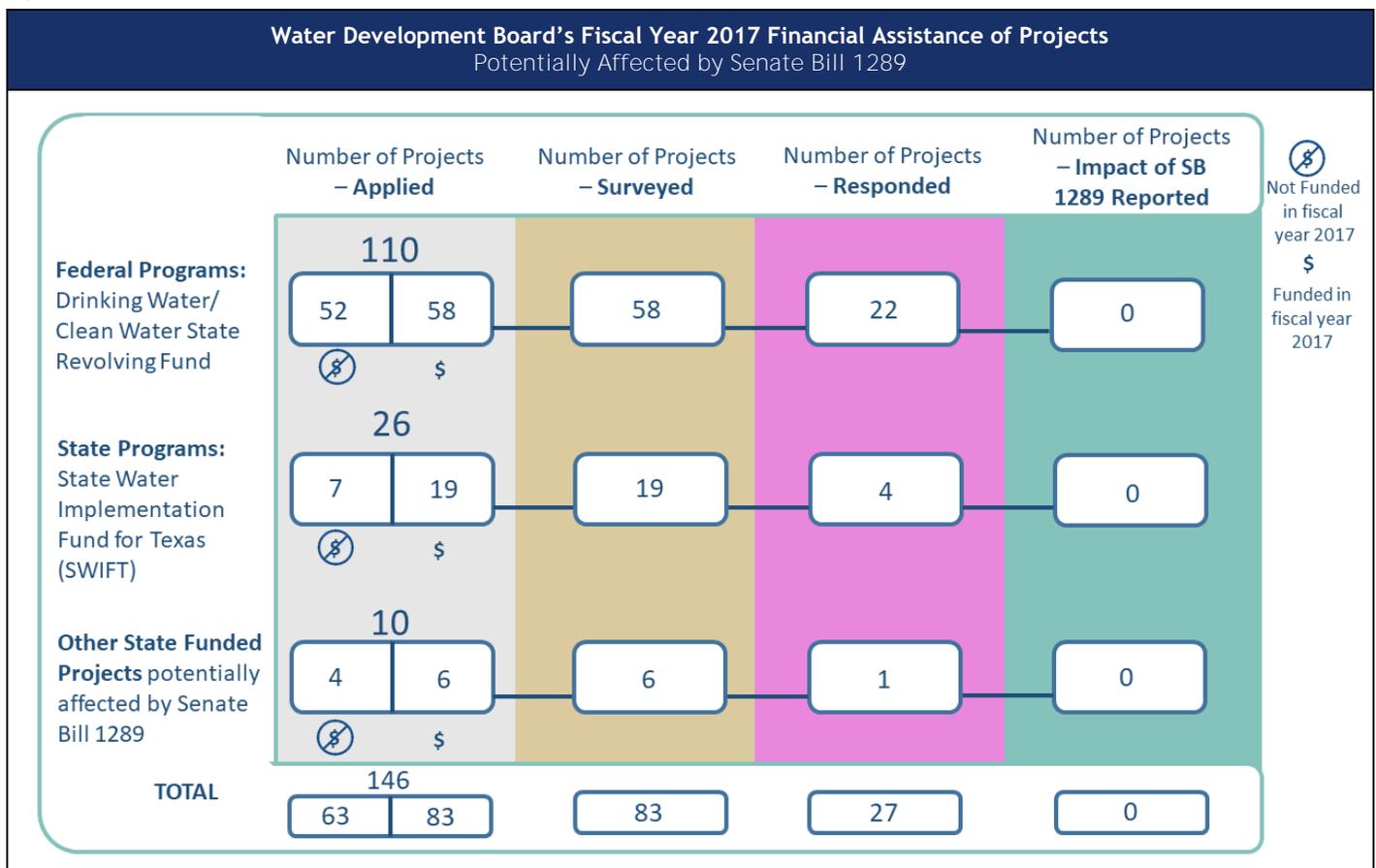
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Senate Bill 1289. The Board noted that although there was no impact reported by the respondents, the potential impacts on future projects financed through the Board cannot be extrapolated from these results. The Board did not include financial assistance applicants who did not receive funding in the survey; however, it asserted it reviewed those fiscal year 2017 applicants' projects and determined that Senate Bill 1289 would not have applied to those projects. Using information obtained from the Board, auditors determined that 51 applicants representing 63 projects applied for but did not receive financial assistance in fiscal year 2017.

Of the 83 projects, there were only 6 state funded projects at 6 entities that were potentially affected by Senate Bill 1289, but only 1 entity responded to the survey and stated there was no impact. In addition, that entity did not provide iron and steel product information (see requirements on the following page); however, the Board asserted that project was not in the construction phase and therefore would not have had iron and steel construction costs.

Figure 1 presents information on the number of applicants and recipients of federal and state financial assistance programs in fiscal year 2017 compared to the number of recipients that were surveyed and responded regarding the impact of Senate Bill 1289 on their construction projects.

Figure 1



Source: Auditors created the figure based on information provided by the Board.

**Iron and Steel Product Information**

The Board relied on limited responses to a survey to determine which entities with construction projects purchased iron and steel products during fiscal year 2017. Of the 20 entities responding to the survey representing 27 projects, 7 entities representing 8 projects submitted the country of origin and costs related to iron and steel products used. One of the 8 projects received funding from the SWIFT program, which is exempt from these requirements (see text box) until May 2019. Seven of the 8 projects received funding from the Drinking Water State Revolving Fund (DWSRF) or the Clean Water State Revolving Fund (CWSRF), which contain existing federal iron and steel requirements not affected by the enactment of Senate Bill 1289.

**Bond Information**

The Board asserted that before each issuance of bonds, it requests a rating and report from the credit rating agencies. This report discusses the explanation for the credit ratings for outstanding bonds issued by the Board to finance or refinance projects in the state water plan as of August 31, 2018; the credit ratings are shown in Table 1.

Table 1

Water Development Board's Bond Credit Ratings as of August 31, 2018 <sup>a</sup>			
Bond Programs	Credit Rating Types		
	Moody's Investors Service Rating	Standard and Poor's Global Ratings	Fitch Ratings
General Obligation Bonds	Aaa	AAA	AAA
State Revolving Fund Revenue Bonds	-	AAA	AAA
State Water Implementation Revenue Fund for Texas (SWIRFT) Revenue Bonds <sup>b</sup>	-	AAA	AAA

<sup>a</sup> Each rating represents the highest available bond credit rating.  
<sup>b</sup> The SWIFT program includes two funds, the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT). Revenue bonds for the program are issued through SWIRFT.

Source: Senate Bill 1289 Report, Water Development Board, December 1, 2018.

Iron and Steel Product Reporting Requirements

Texas Government Code, Section 2252.2025, specifies that for each project that has obtained financial assistance, the Board must report (A) the country of origin of the iron and steel products used in the project, in accordance with United States Code, Title 19, Section 1304; and, (B) the cost and quantity of all iron and steel products received from each country of origin of the project.

Bond Rating Reporting Requirements

Texas Government Code, Section 2252.2025, requires that the Water Development Board report any related bond information, including the credit rating of general obligation bonds or revenue bonds issued to finance or refinance projects included in the state water plan and the potential impact to that credit rating as a result of the bond issuance by the Board.

Objective, Scope, and Methodology

The objective of this project was to prepare a summary on the Water Development Board's report on contracts for construction of projects that received financial assistance under the Texas Water Code, Chapters 15, 16, or 17 during fiscal year 2017. The project scope included the report from the Board related to applications for and the purchase of iron and steel products made in the United States for certain government entity projects during fiscal year 2017.

For the purpose of this project, auditors **relied on political subdivisions' self-reported** information regarding applications for and purchases of iron and steel products for certain Board projects. This information was **self-reported and the State Auditor's Office** did not independently verify that information. It is important to note this was a non-audit service; therefore, the information was not subject to the tests and confirmations that would be performed in an audit. However, the information in this report was subject to certain quality control procedures to help ensure accuracy. The **following members of the State Auditor's** staff performed the project:

- Isaac Barajas (Project Manager)
- Brady Bennett, CFE, CGAP
- Mary Ann Wise, CPA, CFE (Quality Control Reviewer)
- Jennifer Wiederhold, CFE, CGAP (Audit Manager)

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If you have any questions, please contact Jennifer Wiederhold, Audit Manager, or me at (512) 936-9500.

Sincerely,

Lisa R. Collier, CPA, CFE, CIDA

First Assistant State Auditor

Attachment

cc: The Honorable Greg Abbott, Governor  
Members of the Water Development Board  
Mr. Peter M. Lake, Chairman  
Ms. Kathleen Jackson  
Ms. Brooke T. Paup  
Mr. Jeff Walker, Executive Administrator



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