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. The Board intends to publish this report on its website at www.twdb.texas.gov.

The report included a list of political subdivisions (entities) who received funding for projects 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

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1 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.
2 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.
3 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](Image)

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

<table>
<thead>
<tr>
<th>Bond Programs</th>
<th>Credit Rating Types</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Moody’s Investors Service Rating</td>
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<tr>
<td>General Obligation Bonds</td>
<td>Aaa</td>
</tr>
<tr>
<td>State Revolving Fund Revenue Bonds</td>
<td>-</td>
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<tr>
<td>State Water Implementation Revenue Fund for Texas (SWIRFT) Revenue Bonds</td>
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</tbody>
</table>

a Each rating represents the highest available bond credit rating.

b 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.

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