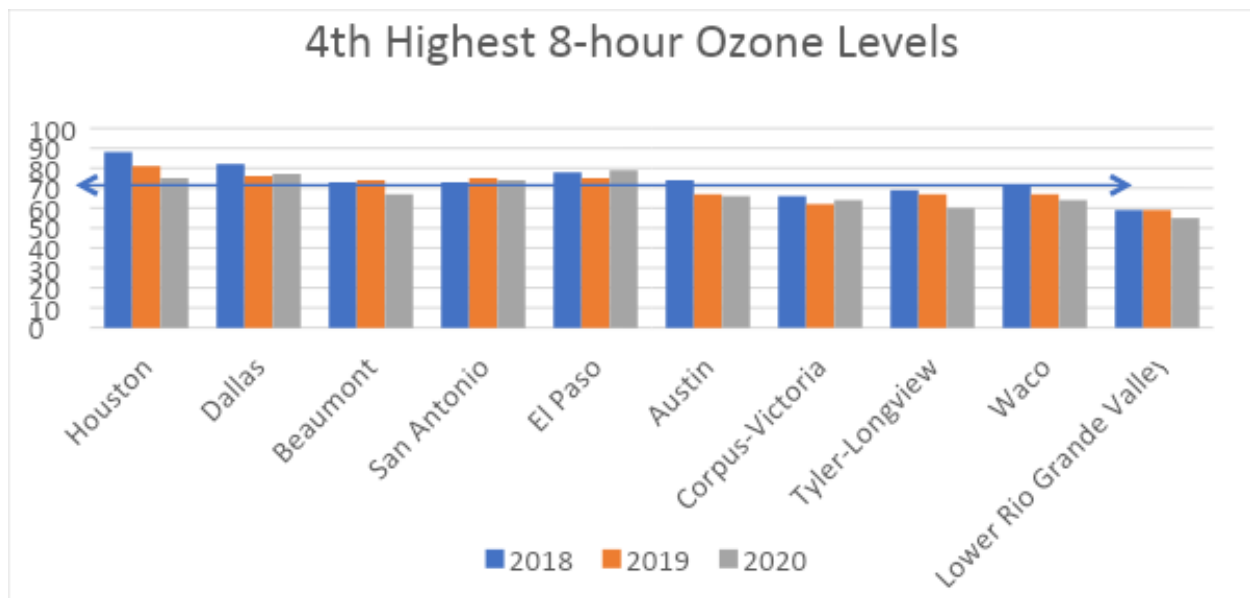




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### HB 3294: Can we finally get TERP funding right going forward?



Decades after areas around Dallas and Houston were first declared non-attainment for ozone, we continue to struggle with meeting our ozone standards, and indeed now both Bexar and El Paso County also violate the federal ozone standards, with other areas like Austin and Waco at times also violating federal standards. In addition, there are multiple days in our major cities when the air is unsafe to breathe particularly for our most vulnerable populations.

Last legislative session, the Sierra Club enthusiastically supported **HB 3745** (Bell/Birdwell) to assure that post-2021 all the fees that have traditionally flown into the Texas Emissions Reduction Plan (TERP) for appropriation instead flow to a new TERP Trust fund that could be directly spent by TCEQ to clean the air. Unfortunately, what we did not understand is that due to an interpretation of the bill by the Comptroller of Public

Accounts and the Legislative Budget Board, the money flowing from the Certificate of Title Fees that initially goes to the mobility fund was not included in this trust fund, and would need to continue to be appropriated by the Texas Legislature.

HB 3294 as filed would fix this issue by reworking the current transfer of funds between the Texas Mobility Fund, Fund 006, and the TERP trust fund. Instead of the above structure, HB 3294 as filed would direct the portion of the certificate of title fees directly to the TERP trust fund, and an amount equal to that portion of the certificate of title fees will be transferred from Fund 006 to the Texas Mobility Fund, holding the Mobility Fund harmless and keeping the transfer within the treasury. In this way all \$150 million per year of certificate of title fees would go the TERP trust fund.

### **The Sierra Club position on any potential “compromise”**

The Sierra Club supports the bill as filed, but we are not opposed to a compromise solution on the certificate of title fees and do support all TERP related money being sent to the Trust Fund to assure that TERP balances do not grow. It is our understanding that the Senate has been pursuing a “compromise” through CSSB 1263 is an attempt at a compromise solution on the issue of certificate of title fees, with the money flowing into the TERP Trust fund, but part of that money would be used for congestion mitigation projects overseen by TXDOT. It is also our understanding that overall the proposed split would be 60% for traditional TERP programs and 40% for congestion mitigation projects. Thus, if we assume total TERP revenues will be \$257 million per year as projected, about \$154 million would be used for existing TERP projects, and \$103 million for congestion mitigation.

We are currently not supporting this proposed compromise offered in Senate but would be more supportive of a different methodology between traditional TERP programs and congestion mitigation projects. Specifically, we believe that a fairer split would be to send any certificate of title fees collected in non-attainment or affected counties to traditional TERP programs, and certificate of title fees collected in areas of the state that do not face air quality issues for congestion mitigation. We believe based upon previous analysis that this would be closer to an 80 to 20 percent split. This concept has been previously filed by Senator Chuy Hinojosa in the 84<sup>th</sup> Legislative Session (SB 321). Essentially, if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section [386.001](#), Health and Safety Code, then we would suggest that certificate of title fee be used for traditional TERP programs since they have a more direct benefit.

Stated simply, while congestion mitigation can be helpful to lower air pollution, traditional TERP programs are much more cost-effective, signaling a more direct benefit to cleaning up our air. Indeed, while congestion mitigation reduces NOX emissions at a

cost of hundreds of thousands of dollars per ton, the cost of the most cost-effective TERP programs is between \$6,000 and \$92,000 per ton.

### Cost-Effectiveness of TERP Programs on Cost per NOX Ton Reduced

Program	Amount Spent	Nox Tons Reduced	Co-Benefit PM Reduced	Cost per Nox Ton Reduced
DERI (Diesel Emission Reduction Incentive)	\$1,147,725	183,434	3,000	\$6,257
DRIG Rebate	\$198,422,619	22,326	1,200	\$8,888
Seaport & Drayage	\$19,930,314	952	3	\$20,934
Texas Clean Fleet Program	\$61,626,649	667	20	\$92,433
TNGVGP	\$56,682,844	1,696	20	\$33,426

The Sierra Club looks forward to working with the Texas House and Texas Senate on continued progress on TERP and TERP funding. Let's clear the air!