

B. Changes in State Housing Element Law Since 1989 RHND Process

The 1998-99 state fiscal budget reinstated the funding which supports the state mandated housing element update process in California. Cities and counties throughout California are once again required to update housing elements based upon the statewide housing goals established by HCD. Jurisdictions in the Bay Area region must update housing elements by December 31, 2001. Since ABAG's last RHND process, state legislators introduced legislation (Assembly Bill 438) that modified Housing Element law significantly.

Assembly Bill 438 (Torlakson, D-Antioch)

State Housing Element law requires city and county planning agencies to provide an annual report to the legislative body on its progress in meeting their share of the statewide housing goals, as determined by the RHND process. A report must be provided to the legislative body, on or before July 1 of each year, using forms and definitions adopted by HCD pursuant to the Administrative Procedure Act. Assembly Bill 438 requires this annual report to also be provided to the Office of Planning and Research as well as HCD.

Assembly Bill 438 sets forth a process that allows each COG to provide a sub-region with its share of the regional housing need. COGs can delegate the responsibility of determining RHND allocations for cities and counties within a sub-region according to a prescribed agreement established between the COG and sub-regional entity.

The most significant change introduced by Assembly Bill 438 addresses concerns raised by cities and counties which suggests that State Housing Element Law focuses too narrowly on construction of new housing units by not considering the rehabilitation of substandard housing units, and efforts to make market rate housing affordable to low income households, as contributing to housing goals established by state law.

Assembly Bill 438 established a procedure that allows a city or county to receive credit for up to 25 percent of its RHND allocation assignments by (1) rehabilitating existing substandard units, (2) purchasing affordability covenants to "buy down" market rate units for the benefit of low-income households, or (3) preserving the affordability of subsidized units at risk of conversion to market-rate status due to the expiration or termination of subsidy contracts. This bill established specific rules and guidelines that must be followed by cities and counties in order for credit to be rewarded. See Appendix C, Assembly Bill 438 (Torlakson, D-Antioch).

C. Methodology Explanation

This section explains ABAG's RHND methodology. It includes a description of the components used in the methodology to distribute the state identified housing need.

ABAG's RHND Methodology

The ABAG Executive Board established an advisory committee—Housing Methodology Committee—to develop the RHND methodology. This committee's primary purpose was to develop an appropriate methodology that both incorporates the planning considerations established in State Housing Element Law, and seeks to fairly distribute the State assigned Regional Housing Needs Allocation to cities and counties in the ABAG region. To accomplish this task, the committee established a set of goals that the methodology should address, as described below.

Methodology Goals

- One:** Growth should be based upon current city boundaries, as opposed to sphere of influence boundaries, when determining RHND allocations
- Two:** Address over and under-concentration of low income housing throughout the region
- Three:** Use the most recent, available, and up to date data source for total number of households in 1999 (1999 DOF E-5 report)
- Four:** Use *Projections 2000* to determine growth
- Five:** Address State Housing Element Law requirements
- Six:** Incorporate ABAG's "Smart Growth" policies
- Seven:** Methodology calculation should be simple, easy to understand and explain

Executive Board Policy Directives

The ABAG Executive Board issued several policy directives in order to ensure that the goals identified by the Housing Methodology Committee were implemented in the RHND methodology. These directives are identified below.

Policy Directives

- One:** Incorporate a 50% jobs/ 50% household weighted ratio in the RHND methodology to address the jobs/ housing issues in the region.
- Two:** Assign 75% of the unincorporated SOI allocations to the cities, and 25% to the counties in order to promote development in urbanized areas rather than on unincorporated lands.
- Three:** Establish guidelines that allow jurisdictions to re-distribute the RHND allocations on a county-wide basis during the 90-day Review and Revision Period.

Methodology Components

To address these goals and directives, the RHND methodology was based upon each jurisdiction's share of regional household and employment growth. This growth is based upon each jurisdiction's current city boundaries. The combination of regional shares of household and employment growth were applied in a methodology calculation that assigns housing need based upon the share of the proportional amount of household and employment growth each jurisdiction would have during the 1999-2006 RHND time frame.

ABAG's RHND methodology is comprised of five components; (1) Household growth, (2) Employment growth, (3) Employment (Jobs)/ household ratio adjustment, (4) Sphere of Influence allocations adjustment, (5) Income Distribution calculation. A detailed description of the RHND methodology and its components is discussed on the following pages.

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ABAG has developed a methodology that considers household and employment growth as determinants for assigning each jurisdiction its RHND allocations. To determine the first component of the methodology (household growth), the methodology uses two primary sources of data, (1) DOF estimate of households in 1999, and (2) ABAG's forecast of households in 2006.

The DOF estimate of households in 1999 reflects the most recent, available, and up to date data source for total number of households in 1999 for the Bay Area region. ABAG's *Projections 2000* document contains a forecast of households for 2006. The methodology uses the DOF estimate of households in 1999 as a baseline starting point and ABAG's forecast of household in 2006 to determine growth during the 1999-2006 time period. The second component used in the methodology (employment growth) is based solely upon ABAG's *Projections 2000* forecast of employment within the Bay Area region.

ABAG's forecast of employment and household growth includes assumptions associated with demographic changes, the availability of housing (supply), personal income, rising housing prices, labor force participation rates, productivity of the workforce, interest rates and other economic indicators such as the Gross Regional Product. For a more detailed discussion of ABAG's forecast process and assumptions, refer to Appendix E.

Methodology Calculation

ABAG's allocation of housing need for each jurisdiction is based upon forecasts of household and employment growth for current city boundaries between 1999-2006. Each jurisdiction's share of regional household and employment growth is applied to ABAG's share of the statewide housing unit goals (230,743) determined by the Department of Housing and Community Development.

The calculation includes the following five components.

1. **Household growth:** Determine jurisdiction's share of regional household growth.
2. **Employment growth:** Determine jurisdiction's share of regional employment growth.
3. **Jobs/housing ratio adjustment:** Input shares of growth in an allocation formula that is applied to the regional housing need number (230,743).
4. **Unincorporated Sphere of Influence allocations adjustment:** Determine the RHND allocation for the unincorporated SOI boundary of each city, then distribute this portion of the RHND allocation, 75% to the cities, and the remaining 25% to the counties.
5. **Income Distribution component:** Divide the total projected need by income category (Very-low, Low, Moderate, Above-moderate).

1. Household Growth Component

The first component of the RHND methodology involves the determination of each jurisdiction's share of household growth in the region. For the purposes of the RHND methodology, household growth is determined by subtracting the DOF estimate of households in 1999 from ABAG's forecast of households in 2006. This household growth is then divided into the total regional household growth, which derives that jurisdiction's share of regional household growth. See Figure 17 below.

Figure 17. Determination of Household Growth

Households 2006		Households 1999		Household Growth		Regional Household Growth
HH2006*	minus	HH1999**	equals	HHG		RHHG***
				Share of Regional Household Growth (SHHG)		
				$\frac{HHG}{RHHG}$	=	SHHG

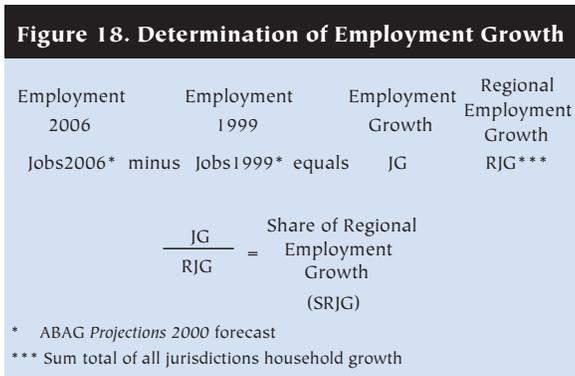
* ABAG *Projections 2000*

** DOF-January 1999 E-5 Report

*** Regional sum total of jurisdictions household growth

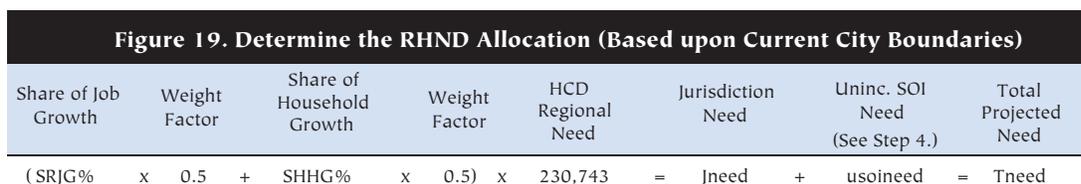
2. Employment Growth Component

The second component of the RHND methodology involves the determination of each jurisdiction’s share of employment growth in the region. Employment growth is determined by subtracting ABAG’s estimate of employment in 1999 from the 2006 forecast. The jurisdiction’s regional share of employment growth is determined by the same method as the regional share of household growth. See Figure 18 below.



3. Employment (Job)/ Household Ratio Adjustment Component (Allocation Formula)

The third component determines each jurisdiction’s share of the region wide RHND allocation based upon each jurisdiction’s ratio of employment (jobs)/ household growth. Each jurisdiction’s share of regional household and employment growth are input into a formula which combines these percentages into a ratio of employment per household which is then applied to the region wide RHND figure (230,743) to determine the jurisdiction’s share of the region wide RHND allocation. See Figure 19 below.



4. Sphere of Influence Allocations Adjustment Component

The RHND allocations are based upon current city boundaries, excluding those areas in the city’s sphere of influence (SOI), outside the current city boundaries. The unincorporated areas of each county have received a RHND allocation which includes those portions of a city’s unincorporated sphere of influence, in addition to those areas outside each city’s SOI. This method assigns the county unincorporated, mainly non-urbanized areas an RHND allocation that includes part of the growth that is being planned by the cities.

In recognition of ABAG’s “Smart Growth” policies which seek to promote development in already urbanized areas, the RHND allocation associated with growth in the unincorporated portions of each city’s SOI has been divided among the cities and counties. The amount of housing need associated with the growth in the SOI areas has been calculated, and the subtracted from the unincorporated portions of each jurisdictions. Each city is assigned 75 percent of this portion of the RHND allocation, with the remaining 25 percent being assigned to each county. See Figure 19 below.

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The calculation of the RHND allocation attributed to the growth in the unincorporated SOI areas is determined by first separating the geographic areas of growth in the region into three distinct categories. Those categories are as follows:

1. Incorporated areas (inside city jurisdictional boundaries),
2. Unincorporated areas within a county's jurisdictional boundaries and outside any city's jurisdictional boundaries or SOI, jurisdictional boundaries but within its SOI.
3. Unincorporated areas outside a city's jurisdictional boundaries but within its SOI.

The RHND methodology calculation assigns the unincorporated county areas an allocation that includes categories 2 and 3. In order to separate the RHND allocation for these categories, a separate RHND methodology calculation must be performed using the Local Area Formulation Committee (LAFCO) approved SOI boundaries.

ABAG's *Projections 2000* contains a forecast of growth for jurisdictions by city boundary as well as sub-regional study areas (SSA)—equivalent to each jurisdiction's SOI boundary. However, the DOF E-5 report estimate of occupied households in 1999 does not contain estimates for SOI areas.

In order to perform the RHND methodology calculation using the DOF baseline estimate of households in 1999, it is necessary to determine the number of units attributed to the SOI areas in the DOF estimates. This is accomplished by comparing the DOF estimate with the ABAG forecast by SSA. Figure 20 illustrates how the comparison is performed.

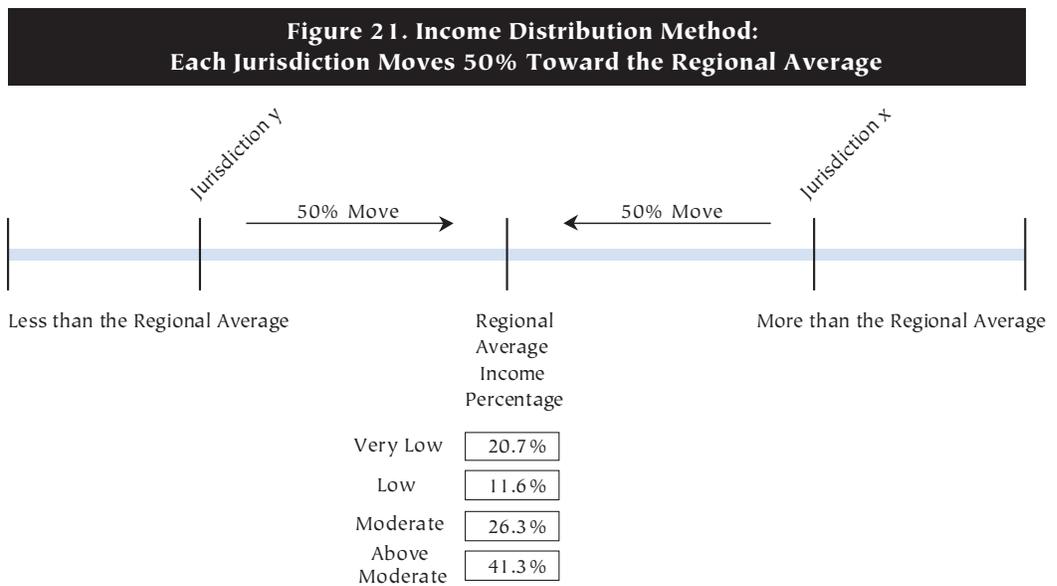
Substituting the ABAG sub-regional study area figure and the interpolated DOF baseline figure in the RHND methodology, results in a RHND allocation based upon adopted LAFCO SOI boundaries. The difference of the combined RHND methodology calculations for the current city boundary and LAFCO approved SOI boundaries, determines the RHND allocation associated with the unincorporated SOI areas. See Figure 19, Page 43.

Figure 20. DOF- SOI Determination Formula

$$\text{Interpolated DOF baseline figure representing the SOI} = \text{DOF 1999 baseline figure} + \left(\text{ABAG forecast for sub-regional study areas (SOI)} - \text{ABAG forecast for current city boundaries} \right)$$

5. Income Distribution Component

According to government code, ABAG is required to distribute the total RHND allocation for each jurisdiction by income category (Very-low, Low, Moderate, Above-moderate). Furthermore, ABAG must “...seek to reduce the concentration of lower income households in cities or counties which already have disproportionately high proportions of low income households.” ABAG’s methodology accomplishes this by shifting each jurisdiction’s income distribution as determined by the 1990 Census 50 percent towards the regional average. The distance of each jurisdiction’s existing income percentage from the regional average will determine the amount of adjustment applied. See Figure 21 below.



D. Local Government Review Process

State Housing Element Law establishes a process and schedule for local governments to review the preliminary housing needs determinations made by ABAG, and recommend revisions where appropriate. The review process involves four steps, as follows:

1. Initial determination of preliminary Housing Needs allocations by ABAG.
2. Local review and revision of preliminary Housing Needs allocations.
3. ABAG action on proposed revisions and adoption of final Housing Needs allocations.
4. Opportunity for local government to appeal the final determination of Housing Needs allocations.

Initial Determination of Preliminary Housing Allocations

On June 1, 2000, ABAG released the preliminary RHND allocations for each jurisdiction in the Bay Area. This action initiated the required 90-day review and revision period, which allows jurisdictions to comment, and/or propose revisions to the preliminary RHND allocations.

Review and Revision Period

Bay Area jurisdictions had until August 31, 2000, to submit in writing any proposed revision to the preliminary RHND allocation assignment according to guidelines defined in Government Code, section 65584(a). Proposed revisions must be based upon available data and an accepted planning methodology, as well as be supported by adequate documentation that includes an analysis of the factors and circumstances, which justify revising the preliminary RHND allocations.

ABAG Action on Proposed Revisions

After the 90-day Review and Revision period, ABAG has 60 days to respond to each jurisdiction's comments and/or proposed revisions. ABAG is required to accept any proposed revisions that meet the criteria defined in Housing Element Law that would warrant a revision, and modify the earlier determination of housing need. If the proposed revision does not meet Housing Element Law criteria, ABAG must indicate, based upon available data and the accepted planning methodology, why the proposed revision is inconsistent with the earlier determination of housing need.

By October 30, 2000, ABAG responded to those jurisdictions that requested modifications to the RHND allocations. 77 Bay Area jurisdictions responded to the preliminary RHND allocations. From this group, 29 jurisdictions requested revisions to their RHND allocation assignment.

Appendix G contains the Revision Guidelines, Criteria and Definitions used by ABAG to review proposed revisions made by Bay Area jurisdictions. Appendix H contains a table that summarizes each jurisdiction's proposed revision and ABAG staff's recommended action.

Appeal Process

On November 16, 2000, the ABAG Executive Board adopted the final Housing Needs Determinations for Bay Area jurisdictions. This action initiated an appeals process, as required by State Housing Element Law. The appeal process allows for jurisdictions to appeal their share of the RHND allocations, in writing, within 30 days of the final determination by the council of governments (ABAG).

Ten jurisdictions appealed the final determination of housing need by ABAG. The ABAG Executive Board appointed a special committee to hear and decide the outcome of these appeals. The following paragraph describes the criteria used by ABAG to evaluate each appeal.

Appeal Process Guidelines and Criteria

Government code, section 65584 subdivision (c) para. 2 subpara. (A)), states that a jurisdiction shall have the right to at least one appeal following the final approval of the housing need determinations for the region by the ABAG Executive Board. Any appeal made must be based upon the same state identified criteria as used in the Review and Revision process. In addition, ABAG identified the following criteria and guidelines to be included in the Appeal Process:

- Each jurisdiction in the ABAG region will be given one opportunity to appeal the decision by the Executive Board.
- The jurisdiction that is appealing shall identify another recipient (other jurisdiction(s)) willing to incorporate any proposed reduction in housing need.
- Any revision of housing need will be accomplished within the same county as the appealing jurisdiction.
- Previous available information not raised during the 90-day Review and Revision period cannot be presented during the appeals process.

Appeal Hearings

On January 25, 2001, the Appeal Committee met and decided the outcome of all appeals. Appendix I contains a summary of each jurisdiction's appeal and the Appeal Committee's resolution, deciding the outcome of each appeal.

The Appeal Committee denied eight jurisdiction appeals, and approved two revisions to the RHND allocations (City of Alameda, City of Richmond). See Appendix I. The Appeal Committee's actions were forwarded to the Executive Board for final approval and certification at the Board's March 15, 2001 meeting.

The Executive Board reviewed the Appeal Committee decisions regarding each appeal, and voted to accept all of the Committee's actions with the exception of the revision to the City of Alameda's RHND allocations. The Executive Board approved a resolution, certifying the final RHND allocations. This action finalized the 1999-2006 Regional Housing Needs Determination process.

E. RHND Policies and Guidelines

California state law allows ABAG to adopt policies and guidelines that govern the transfer and/or redistribution of RHND allocations, between city and county jurisdictions, when annexation or incorporation of new jurisdictions occurs during the RHND planning timeframe. The following policy establishes the conditions and process for any such redistribution:

Step 1. Filing of Application for Annexation or Incorporation

Upon receipt of notice of filing from LAFCO for a proposed annexation or incorporation, the city and county will jointly notify ABAG of the proposal, and resulting need for a redistribution of RHND allocations between the county and applicant jurisdiction.

Step 2. Discussion with Annexing/Incorporating City

During the course of the annexation/incorporation process, the city and county will negotiate in good faith the number of RHND allocations to be redistributed. The transfer of RHND allocations will be based upon the geographic area that is proposed to be annexed/incorporated. No net reduction in the RHND allocations between the county and the applicant jurisdiction is allowed.

This means that the total number of housing units by income category accepted by the applicant jurisdiction, plus the remaining number of units by income category attributable to the donor county, shall not be less than the original number of units by income category allocated to the county by the RHND process. Other than satisfying this requirement, the county and annexing/incorporating city may negotiate any redistribution of housing need that is mutually acceptable.

If necessary, ABAG can be consulted jointly by the city and county involved in the annexation/incorporation process. ABAG will use the approved RHND methodology to determine the total RHND allocations (by income category) that are applicable to the geographic area being annexed/incorporated. The annexation agreement will reflect this determination as a minimum RHND allocation assignment.

Step 3. Annexation/Incorporation Conditions

The city and county involved in the annexation/incorporation will jointly draft a proposal outlining the conditions and/or agreements covering the transfer of RHND allocations from the county to the annexing/incorporating city. This proposal shall be submitted to ABAG for review and acceptance prior to its final adoption by the jurisdictions involved in the transfer of RHND allocations. Once ABAG has accepted the proposal, the county will request that the RHND allocation conditions/agreements be included in the LAFCO resolution approving the annexation/incorporation.

Step 4. LAFCO Imposition of Conditions

LAFCO imposes the proposed RHND conditions in the resolution approving the annexation/incorporation.

Step 5. Transfer of RHND Allocations

RHND allocations will be transferred from the county to the city as specified in the LAFCO resolution.

Step 6. Housing Elements

6a. County Housing Element

The county's housing element should describe assumptions, conditions and implications of any change in RHND allocations resulting from the annexation/incorporation. Following the effective date of an approved annexation/incorporation, the county may amend its housing element to reflect the change in RHND allocations.

6b. City Housing Element Amendment (annexation)

If the annexation and accompanying redistribution of RHND allocations between affected jurisdictions occurs after the statutory housing element amendments have been adopted, any city general plan amendment accompanying an annexation should include amendment of the city's housing element to reflect that change.

OR

6c. City Housing Element (incorporation)

If the incorporation and accompanying redistribution of RHND allocations between affected jurisdictions occurs after the statutory housing element amendments have been adopted, the new city will include the RHND allocation transfer into the housing element adopted for the newly incorporated city.

Step 7. State HCD Review

Transfer of RNHD allocations for incorporations or annexations pursuant to this policy is subject to the review and approval of HCD for consistency with the approved RHND Plan prior to the implementing action.