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Business Rate Supplements Bill

Bill 2 of 2008-09

The Bill gives legislative effect to the scheme outlined in *Business rate supplements: a white paper* (Cm 7230). This allows upper-tier local authorities, and the Greater London Authority, to levy a supplement on the business rate in order to fund local economic development projects. Businesses must be consulted and, in certain circumstances, balloted before a rate supplement can be introduced.

The Bill was introduced into the House of Commons on 4 December 2008. It is due to have its Second Reading on 12 January 2009.

The Bill extends to England and Wales.

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Summary of main points

- Sir Michael Lyons recommended a supplementary business rate (SBR) scheme in his final report on local government, published in March 2007. He believed that local authorities should be given the power to levy a small additional rate in order to raise funds for local investment. This must be done through agreement with local business.

- In May 2007, the House of Commons Communities and Local Government Committee launched an inquiry into SBR. The scheme recommended by the Committee differed in certain key respects from the Lyons proposals.

- In October 2007, the Government published *Business rate supplements: a white paper* (Cm 7230) which set out the main features of a scheme modelled broadly on the Lyons proposals. It was also announced that rate supplements in London would be used to part-finance Crossrail.

- The Bill seeks to give legislative effect to the scheme as described in the white paper. The main features are:

    - Only the highest tier of local authority will be entitled to levy a business rate supplement (BRS); in London the power will rest with the Greater London Authority;
    - BRS revenues must be spent on economic development;
    - A national upper limit of 2p per £1 of rateable value will apply;
    - Local authorities are required to consult with business, and to produce a detailed prospectus, before introducing any BRS scheme;
    - A ballot of business will be required where the supplement supports more than one third of the total cost of the project;
    - All properties with a rateable value below a certain level will be exempt (the white paper said that the threshold would be £50,000, but this is to be specified in regulations).

- Reactions have been mixed. Most business organisations are concerned about the possible impact of a power to levy additional rates, particularly during an economic downturn, and argue that local businesses must be balloted before any BRS can be introduced. By way of contrast, the Local Government Association and Communities and Local Government Committee have argued that greater discretion should be given to local authorities.

- The Bill extends to England and Wales. Powers conferred on the Secretary of State are exercisable by Assembly Government Ministers in Wales.

Note on terminology:
The phrase in common use until publication of the Government's white paper in October 2007 was 'Supplementary Business Rates" or **SBR** for short. The white paper renamed them "Business Rate Supplements" or **BRS**. Commentators therefore tend to refer to "SBR" before October 2007, and to "BRS" after that time.

CONTENTS

I Background

Rates on both domestic and non-domestic property were originally set by local authorities. The *Local Government Finance Act 1988* replaced domestic rates with the community charge and introduced the uniform business rate. Henceforth, the Government set a national rate each year in respect of non-domestic property - known as the 'multiplier' - which, when applied to the rateable value of a premises, gives the basic rates bill payable.[1]

Local authorities neither set rates nor retain the revenues derived from them. Billing authorities collect the rates and pay the revenues to a central pool. It is then redistributed by central government to local authorities as part of the annual grant settlement. For business this system provides certainty and predictability, but it muddies the waters of accountability between a council and local business. Critics bemoan the loss of a direct link between local taxation and local services, and the lack of an incentive for local authorities to enlarge their business base.

The idea of allowing local authorities to levy a supplementary rate was raised in a government white paper published in 1998.[2] Plans for the scheme were eventually dropped in favour of Business Improvement Districts (BIDs). Both matters are discussed in later sections of this paper. The idea of supplementary rates resurfaced in the Government-sponsored Balance of Funding Review which reported in 2004.[3] It was promoted as a revenue-raising tool for city regions in a pamphlet published in 2006 by Centre for Cities, an urban think tank.[4] It also found favour with the All Party Urban Development Group.[5] However, it was the strong endorsement from the Lyons Inquiry which ensured that the matter was once more given serious attention.

A. Lyons Report

An independent inquiry by Sir Michael Lyons into the local government funding system was established by the Government in July 2004. The remit of the Inquiry was widened in September 2005 to include consideration of the role and functions of local government. Two interim reports were published during the course of the Inquiry and the final report was published alongside the Budget in March 2007.[6]

In his analysis of local government funding, Sir Michael pointed out that business rates have provided "…a falling proportion of local government spending over time" in contrast to local government grants and council tax revenues which have outpaced inflation. He

1 The standard multiplier in England for 2008-09 is 46.2 pence in the pound.

2 *Modern local government: in touch with the people*, Cm 4014, July 1998

3 Balance of Funding Review, *Report*, ODPM, July 2004, p40

4 Adam Marshall and Dermot Finch, *City leadership: giving city-regions the power to grow*, Centre for Cities, 2006

5 All Party Urban Development Group, *Loosening the leash: how local government can deliver infrastructure with private sector money*, 2007, http://www.allparty-urbandevelopment.org.uk/reports.html

6 Lyons Inquiry into Local Government, *Place-shaping: a shared ambition for the future of local government: final report*, March 2007, See, in particular, chapter 8 on business taxation. http://www.webarchive.org.uk/pan/15454/20070428/www.lyonsinquiry.org.uk/index.html

rejected the idea of a general national increase in business taxation which he thought might jeopardise the development of constructive relationships between local authorities and businesses. But he believed that communities needed more power to raise money locally for local investment. He said:

> In my discussions with businesses I have also found an appetite for greater engagement with local authorities on economic development issues. Businesses have identified a need to invest more in the infrastructure required to support future growth – a concern that can perhaps most easily be exemplified by reference to the debate in London on Crossrail, but of which examples exist across the country. Combined with effective incentives on local communities, greater flexibility over raising revenues to invest at the local level should allow communities to strengthen their own economies and tax bases over time.[7]

Lyons did not recommend returning business rates to local authority control, considering that "…local authorities and the business community still have to work on developing trust and shared objectives…" However, he urged the introduction of a power at the margin to levy a supplement on the local business rate. This would provide additional flexibility for local authorities but would be a) more transparent, and b) have less impact on business.[8] In brief, his recommendations for a new SBR included the following:-

Upper limits: There should be a cap, perhaps set at a lower level than the highest BIDs supplements (4p per £1 of rateable value). There might be a case for allowing a higher limit for "particularly significant projects" but this should be subject to more stringent approval mechanisms.

Approval: There should be a requirement to consult local businesses and the wider community but no requirement to ballot (although such a course should be open to local authorities to use if they wished). Authorities should make an assessment of the impact of the supplement and the potential economic benefits.

Hypothecation of revenues to the purposes approved by stakeholders but no formal set of rules from central government. Local authorities must be able to use the revenues to support borrowing.

Duration: No universal limit on the time during which a supplementary rate might be levied. However, the proposal should include a clear timetable and new approval would be required for the supplement to run beyond this period.

Tier of authority: In the interests of simplicity, only upper tier authorities should levy supplements.[9] However, joint plans should be agreed between counties and districts in two-tier areas. In London there should be a single, London-wide supplementary rate set through agreement between the GLA and the boroughs. Authorities in large urban areas and city regions might wish to use a similar joint approach.

Relief for small businesses: Lyons suggested a threshold below which small businesses would not pay a supplement. However, any additional discounts and

7 *Ibid*, Executive summary, para 191
8 *Ibid*, Executive summary, para 195
9 Outside London these are county councils, shire unitaries and metropolitan districts.

exemptions might be decided locally depending on the purpose of the supplement and local economic conditions.

Gordon Brown, then Chancellor of the Exchequer, responded in the Budget to the SBR recommendation as follows:

> The Government believes that a local supplement has the potential to support local economic development, but would need to be subject to credible accountability to rate payers and real protection for any businesses – particularly SMEs – that might be disproportionately affected. The Government will give consideration to what the best options may be, working closely with business, local government and other stakeholders.[10]

B. Communities and Local Government (CLG) Committee

The House of Commons Communities and Local Government Committee conducted a "short and pointed inquiry" into SBR which they considered Sir Michael Lyons's "most significant proposal relating to local government finance." The report, including oral and written evidence, was published in August 2007.[11] The Committee identified three major **advantages** of such a scheme, namely:-

- Genuinely additional revenue for investment in local projects and services;
- A means of facilitating stronger relationships between business and local government, particularly in the field of economic development;
- Greater flexibility for local authorities enabling them to adopt a stronger role in local place-shaping.

In summarising the **case against** SBR, the Committee said:

> Rather than demurring from these broad objectives, those who argued against the proposal tended to do so on the grounds either that an SBR was unlikely to achieve them or that practical difficulties in implementation would render the proposal unworkable or prohibitively inefficient, and often both.[12]

The Committee agreed with some aspects of the Lyons proposals but significant differences were apparent in the following recommendations:

- **Tier of authority**: Not only should upper tier authorities be able to propose an SBR in co-operation with second tier authorities in their area, but second tier authorities should also be able to propose an SBR, either individually or jointly, with neighbouring districts. Similarly, in London, boroughs should be able to initiate schemes.

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[10] HM Treasury, *Budget 2007: Building Britain's long term future: prosperity and fairness for families*, Chapter 3: "Meeting the productivity challenge", Para 3.138, available at: http://www.hm-treasury.gov.uk/budget/budget_07/report/bud_budget07_repindex.cfm

[11] Communities and Local Government Committee, *Local government finance: supplementary business rate*, August 2007, HC 719 2006-07, vol. I - report, vol. II - oral and written evidence, available at: http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcomloc/cmcomloc.htm

[12] *Ibid*, Vol. I, para 25

- **Upper limits**: SBR should not be capped by central government but determined locally. Where a local variation, upwards or downwards, of more than 10% is contemplated (roughly equivalent to 4p in the pound) there should be a ballot of the business community.

- **Exemptions and reliefs**: Any exemptions and discounts should be determined locally and not prescribed nationally.

The Committee's report had been published before the white paper appeared containing final details of the scheme. The Committee therefore published a further report with comments on the scheme in January 2008. This incorporated the Government's response to the first report.[13] The Government's response to the second report was published as a special report by the Committee in November 2008.[14]

C. The BRS White Paper

The Treasury-led review of sub-national economic development and regeneration, which reported in July 2007, described supplementary rates as potentially "a powerful new tool" for infrastructure investment by local authorities which would support long-term economic growth in their areas. It said that the Government would consider options for SBR along with local government, business and other stakeholders.[15]

Government proposals for rate supplements were set out in *Business rate supplements: a white paper*[16], published in October 2007 along with the Pre-Budget Report and Comprehensive Spending Review. The paper acknowledged that, unlike other comparable economies such as Germany and the U.S., sub-national government in England has "very limited powers to adjust business or domestic taxation to fund investment." As a rule, major projects have to be funded from central government resources. BRS was one way in which this problem might be addressed.

The paper identified several **key benefits** of supplements. They included:

- Devolved decision-making – resources would be raised and controlled locally; those with a stake in the success of a scheme, and the best understanding of what is needed, would be running it;

- BRS would provide genuinely additional revenue for investment in local projects; these could well have long-term economic benefits and would otherwise be unfunded;

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13 Communities and Local Government Committee, *Local government finance: supplementary business rate: the Government's response*, January 2008, HC 210 2007-08

14 Communities and Local Government Committee, *Local government finance: supplementary business rate: Government response to the Committee's third report…*, November 2008, HC 1200 2007-08

15 HM Treasury et al, *Review of sub-national economic development and regeneration*, July 2007, para 6.43, http://www.hm-treasury.gov.uk/3753.htm

16 HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, http://www.communities.gov.uk/publications/localgovernment/504933

- It would spur local authorities and business to work together. Local authorities could strengthen their economic role and improve their relationship with, and accountability to, business.

The main **risks** inherent in this policy were identified as:

- Disproportionate and adverse economic impact from the costs of a supplement;
- A damaged relationship between local authorities and business;
- Infringement of the Government's fiscal rules through associated borrowing by local authorities for investment in infrastructure;
- Revenues from the supplement might replace existing funding instead of being genuinely additional;
- BRS might inhibit or undermine existing or new Business Improvement District (BID) schemes.[17]

Issues raised in the white paper are discussed in the relevant sections of this paper. In brief, the paper proposed the following model for BRS:

Use of revenues: Revenues to be earmarked for spending on economic development (e.g. infrastructure) only. The Government would specify areas of expenditure towards which BRS revenues could <u>not</u> be put. A transparent accounting framework to be put in place.

Upper and lower limits: A national upper limit of 2p per £1 of rateable value to be set on the level of supplements that can be levied.

Reliefs and exemptions: Businesses in premises with a rateable value of £50,000 or less to be exempted from paying supplements.

Approval: Statutory consultation with businesses and other stakeholders required but no ballot except where the supplement supports more than one third of the total cost of a project.

Tier of authority: Only the highest tier local authority in any area to be entitled to levy supplements. In London the power will rest with the Greater London Authority.

Duration: No maximum limit on the duration of a supplement.

II Reactions to the scheme

The reactions of business organisations to the white paper proposals of October 2007 ranged from cool to downright hostile. The **CBI's** Deputy Director-General, John Cridland, said:

[17] BIDs are discussed in the final section of this paper.

> The government has recognised that business is not prepared to give local government carte blanche to tax firms rather than voters. But giving business a vote must be a non-negotiable part of the package on all major projects.[18]

The Director-General of the **British Chambers of Commerce** said that it was unacceptable to tax businesses in order to "bridge the gap in transport spending."[19] The **Federation of Small Businesses** and **Institute of Directors** joined with the BCC in voicing their opposition to BRS. The latter said that it would increase costs "…without any correlation with a business's profits or their ability to pay.[20]

However, some days later the ***Financial Times*** published a leader which criticised the hostile response from business organisations. It said that the BRS plan was "modest", had "some merit" and came "laden with safeguards." It advised lobby groups to focus on issues where there are arguments to win such as the level of the trigger for a ballot or ensuring that the £50,000 exemption threshold was not lowered. It added:

> [The business lobby] should welcome a move – even one as limited as this – towards giving councils more say in their own affairs. They have significantly raised their game during the past decade. Yet Whitehall continues to treat elected councils as if they would turn delinquent if let off the leash for a second. There deserves to be a more serious rebalancing of responsibility between central and local government.[21]

Following the Queen's Speech in December 2008, the **CBI** said that, while additional funding was needed for big infrastructure projects such as Crossrail, "…now is not the time to bring in new powers to raise tax more widely from business."[22] The **Institute of Directors** supported the use of supplements for Crossrail but otherwise deplored the imposition of additional burdens during a recession.[23] The **British Retail Consortium** said that the supplements would add an extra £160m a year to retailers' rates bills. When added to the 2010 rates revaluation and the end of empty property rate relief, it was "another burden on retailers when they can least afford it."[24]

David Frost, Director-General of the **British Chambers of Commerce** commented:

> As companies are struggling to survive, it cannot be right that they face the possible combination of Local Authorities establishing new Business Rate Supplements, Community Infrastructure Levies, congestion charging and Workplace Parking Levies. The unpredictable burden of these taxes and charges should be cut with greater clarity and accountability brought in.

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[18] CBI, "Chancellor's statement a 'mixed bag for business'", *News release*, 9 October 2007

[19] British Chambers of Commerce, "Unacceptable for transport shortfall to be filled by a supplementary business rate", *Press release*, 9 October 2007

[20] FSB/ BCC/ IOD, "United opposition to proposed supplementary business rate", *News release*, 11 October 2007

[21] "The wrong battle – business organisations should accept supplementary rates", *Financial Times*, 22 October 2007, p12

[22] CBI, "CBI reaction to Queen's Speech", *News release*, 4 December 2008

[23] IOD, "Government fails to help small businesses through the recession", *Press release*, 3 December 2008

[24] British Retail Consortium, "Queen's speech – retailers warn of business rate stealth tax", *News story*, 3 December 2008,

> If, however, Local Authorities are to be given the flexibility to introduce a supplement, any proposal must be an infrastructure project that business believes is necessary, with a clear project plan, ring-fenced, additional funds, ongoing business oversight of the initiative and a mandatory business vote. We are also concerned about the impact the lack of a national offset for Business Improvement District levies will have on the future of these projects.[25]

John Healey, Local Government Minister, said that the Government recognised the current pressures on businesses. He said that the supplement was "…a power, not a duty", that it would not be applied in every area and that it was "…vital at this time" for councils and businesses to work together in developing the local economy.[26]

The **Local Government Association** welcomed the Bill "in principle" but stated that councils would be "disappointed that the government has been overly cautious in its approach, with a proposed limit of only 2p per pound of rateable value, rather than the 4p limit proposed in the Lyons review."[27]

Following the publication of the white paper, the **Communities and Local Government Committee** had welcomed the decision to introduce a SBR as a "first step" in the long-term reform of local government finance. But it considered the proposals "a significant disappointment" because:

> **They lack a convincing vision of the future. They are over-cautious and so circumscribed that they will fail to secure any real advance in autonomy for the majority of local authorities.** The Government's proposals would result in an SBR with a significantly lesser degree of local discretion than that which we envisaged. Its response to our report is unconvincing in its arguments for the restrictions placed on the powers proposed and wholly lacking in any engagement with our broader conclusions on the need for further financial devolution to local authorities.[28]

The Government felt obliged to signal its disagreement with this verdict, saying that its proposals would "promote certainty for business and provide additional flexibility for local authorities in meeting local economic development needs."[29]

Tony Travers wrote the following in *Local Government Chronicle*:

> It is wonderfully odd that it has taken a railway to force the government into introducing a new local tax…Step by step, central government is being forced to concede new taxes and levies to fund necessary assets or services. The Crossrail SBR in London may raise £300m to £400m per year – over 10% of the council tax

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25 BCC, "BCC response to Queen's Speech", 3 December 2008, http://www.britishchambers.org.uk/6798219245753685562/bcc-response-to-queen-s-speech.html

26 DCLG, "New council powers to boost economic prosperity", *News release*, 4 December 2008, http://www.communities.gov.uk/news/localgovernment/1086676

27 *LGA Queen's Speech Briefing 2008*, 3 December 2008, http://www.lga.gov.uk/lga/aio/1270773

28 Communities and Local Government Committee, *Local government finance: supplementary business rate: the Government's response*, January 2008, HC 210 2007-08, para 8

29 Communities and Local Government Committee, *Local government finance: supplementary business rate, Government response to the Committee's third report…*, November 2008, HC 1200, 2007-08, p1

> yield, so not a small revenue. Local tax reform can no longer be seen as impossible. Movement is in the right direction.[30]

Dermot Finch, Director of **Centre for Cities**, an urban policy unit based at the Institute for Public Policy Research, has been a strong supporter of rate supplements, particularly as a means of funding transport improvements in and around cities such as Manchester and Leeds. In a letter published in the *Financial Times* in March 2008, Mr Finch wrote:

> Supplementary business rates will give businesses a real say over what their money should be spent on. They will also give local councils an incentive to promote local economic growth, which will benefit business in the long run. In uncertain economic times, business and local authorities need more than ever to work together to improve their local business environment.[31]

Chris Leslie, Director of **New Local Government Network**, also welcomed the white paper. He said that the Government had erred on the side of caution, adding:

> Over time we hope that the requirement to gain the separate consent of businesses can be removed, with local elections acting as the best way for such proposals to be endorsed by all residents and businesses. We would also urge the Government to think again and allow London boroughs to be able to levy SBR.[32]

Eric Pickles, **Conservative** Shadow Communities Secretary, tabled an early day motion in October 2008 which attacked current business rate policy. On BRS it criticised "…the Government's plans to impose supplementary business rates on local business with no ability for firms to endorse or reject the rate [and] questioned why transitional rate relief would not apply to supplementary rates."[33] Baroness Noakes said in debate on the Queen's Speech that, far from relieving pressure on struggling businesses, it was "designed to tax them further."[34]

The **Liberal Democrats** have called for full re-localisation of rates as part of a restructured financial system for local government.[35] Nevertheless, Lord Cotter, Liberal Democrat spokesman on small businesses in the Lords, has expressed concern about the timing of the BRS legislation:

> The Queen's Speech was light in many respects, and in others somewhat concerning. Under the latter heading I would place the Business Rate Supplements Bill, which many see as a burden on small and medium-sized enterprises. The British Chambers of Commerce, along with other small business organisations and we on these Benches, are concerned. It does not seem to be a

[30] Tony Travers, "It's taken a railway to force government to introduce a new tax", *Local Government Chronicle*, 11 October 2007, p5

[31] Letter to *Financial Times*, 14 March 2008 p16

[32] NLGN, "Supplementary business rate will give councils new freedoms", *Press release*, 9 October 2007, http://www.nlgn.org.uk/public/press-releases/supplementary-business-rate-will-give-councils-new-freedoms/

[33] EDM 2373 2007-08

[34] HL Deb 8 December 2008 c160

[35] See, for example, *Giving power to people and communities – Nick Clegg speech to the LGA*, 3 July 2008, http://www.lga.gov.uk/lga/aio/772667

> good time to introduce an additional cost for businesses that are struggling to survive in a time of economic crisis.[36]

III The Bill

The Bill was introduced into the House of Commons on 4 December 2008.[37] An impact assessment was published at the same time.[38] The following is a summary of the main provisions together with background information on each. Readers are referred to the Bill's explanatory notes for a detailed clause by clause commentary.[39]

A. Levying authorities

1. Clauses

Clause 1 gives levying authorities the power to impose a BRS on non-domestic ratepayers for the purpose of raising money to finance "…a project that the authority is satisfied will promote economic development in its area." **Clause 2 (1)** defines the term "levying authorities." In London this is the Greater London Authority. For the rest of England it is the county councils, shire unitaries and metropolitan districts. In Wales it is the county and county borough councils.

2. Commentary

a. Two-tier areas

Sir Michael Lyons voiced reservations about "giving supplementary powers to a large number of authorities" given the concerns of business about complexity. He therefore proposed that only upper tier authorities should levy the rate, a move that would keep the number of possible rates down to a minimum. However, he also saw an opportunity for coalition building in two-tier areas: upper tier authorities would levy the supplement but districts and counties would discuss and agree a joint plan for use of revenues.[40]

The Communities and Local Government (CLG) Committee reported that the proposal to limit the power to levy to upper tier authorities was one of the most controversial aspects of the policy. Evidence from Kent County Council had dwelt on the complexities of securing agreement between the County Council and the 12 district authorities.[41] The Select Committee went on to recommend that *any* tier of local government should be able to introduce a supplementary rates scheme. Upper tier authorities could be empowered to propose a SBR in co-operation with second tier authorities in their area.

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36 HL Deb 8 December 2008 c222

37 http://services.parliament.uk/bills/2008-09/businessratesupplements.html

38 DCLG/ HM Treasury, *Business Rate Supplements Bill 2008: Impact Assessment*, December 2008, http://www.communities.gov.uk/publications/localgovernment/businessratessupplementsia

39 *Business Rate Supplements Bill: Explanatory Notes*, http://www.publications.parliament.uk/pa/cm200809/cmbills/002/en/09002x--.htm

40 Lyons Inquiry into Local Government, *Place-shaping: a shared ambition for the future of local government: final report*, March 2007, p301

41 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para 40

Second tier authorities could also have the power to propose a supplementary rate, either individually or jointly with neighbouring districts.

This suggestion caused some alarm in business circles.[42] However, Tesco had actually argued in its evidence for a more localised approach:

> …supplementary rates should be set at as disaggregated a level as possible since that would allow both the raising and spending of money to be more finely tuned to local circumstances. Upper tier authorities appear to be too large for this purpose. Indeed, applying the same supplement in all parts of an upper tier authority, such as Kent for example, would undoubtedly involve some form of redistribution, ie some parts of Kent would benefit more than others, while all businesses will pay the supplement.[43]

The Government broadly followed the Lyons recommendations on this issue. Only the highest tier authority in any area may levy the supplement. But the "key role" of district councils in two-tier areas is reflected in the proviso that counties must consult their districts (which also have powers to promote economic well-being) on any new supplement proposals. Additionally, the Government made the following points in its second response to the CLG Committee:

- Districts and London boroughs have a key role to play through BIDs;
- It would not be reasonable for a business to pay more than one supplementary rate levy simply because it is in a two-tier area;
- Applying supplements on a larger geographic scale will help to even out some of the variations in tax bases.[44]

b. London

Lyons believed that the approach to SBR in London must…

> …facilitate city-wide action on infrastructure issues and acknowledge the wide variations in the tax base between different parts of the city. The places where infrastructure is required may well not match the pattern of revenue raising.[45]

For this reason he proposed that a London-wide supplementary rate would be set through agreement between the Greater London Authority (GLA) and the boroughs, and in consultation with the business community. The CLG Committee recommended that, in London, the GLA should have the power to initiate a London-wide SBR which could be blocked by a two thirds majority of London local authorities. Individual boroughs should

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42 *Letter to Chancellor – Business Rate Supplements*, Institute of Directors/ British Retail Consortium/ British Chambers of Commerce/ Federation of Small Businesses, 6 March 2008; referred to in "Business warns against council levy, *Financial Times*, 12 March 2008 p6

43 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, Tesco evidence (SBR 39), para 16

44 Communities and Local Government Committee, *Local government finance: supplementary business rate: Government response to the Committee's third report…*, November 2008, HC 1200, 2007-08, p3

45 Lyons Inquiry into Local Government, *Place-shaping: a shared ambition for the future of local government: final report*, March 2007, p301

have the power to initiate local SBR either individually or in co-operation with other London boroughs.

The Government agreed with Lyons and rejected the Committee's recommendations both that boroughs should be able to set rates and should be able to block a GLA levy. In its response to the Committee's report, it said that there was a "clear case" for a single London-wide supplement being set by the GLA. The latter was a "democratic city-wide authority whose role is to take strategic decisions on the economic development issues that a business rate supplement is for."[46] As regards consultation, the white paper noted that statutory arrangements already exist for the GLA to consult the boroughs as part of the budgeting process.

Further discussion of rate supplements in London can be found in a later section of this paper on "London and Crossrail."

B. Multi-area supplements

Clauses 2(2) and 2(3) provide for two or more levying authorities to raise a BRS jointly. The explanatory notes state that:

> The majority of functions connected with a BRS will be exercisable jointly, although levying authorities will individually be responsible for publishing the BRS prospectus under clause 5 and maintaining their own BRS revenue account under Schedule 2.

Commentary: Lyons had envisaged the possibility that cross-boundary collaboration between upper tier authorities might usefully involve co-operation over a supplement. The white paper pledged that upper tier authorities would be able to co-operate in raising supplements to fund joint projects if they wished to do so. These were called "multi-area supplements" and were expected to apply in sub-regional groupings of authorities covered by multi-area agreements (MAAs).[47] Each authority is to remain individually responsible for the supplement it levies but "…arrangements on consultation and voting will be constituted so that authorities can cooperate on a sub-regional basis.[48]

In this context, the Centre for Cities had stated the following in written evidence to the CLG Committee:

> …tying SBRs to the city-regional or sub-regional level would ensure that revenues collected are of a sufficient magnitude to underpin a substantial, visible infrastructure investment. With a few high-profile exceptions (eg Birmingham,

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46 Communities and Local Government Committee, *Local government finance: supplementary business rates: Government response*, January 2008, HC 210 2007-08, p11

47 MAAs are, in essence, cross-boundary extensions of local area agreements (LAAs). They enable groups of authorities and their partners to agree collective targets and priorities, predominantly in the sphere of economic development. Funding may be pooled and joint action undertaken. MAAs have developed on a voluntary basis, and the Government intends that they should remain voluntary although certain aspects (e.g. the duty on councils and their partners to co-operate within an MAA) are expected to be given a statutory basis in the *Local Democracy, Economic Development and Construction Bill [HL] 2008-09*.

48 HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, para 2.76

> Leeds), individual local authorities do not have a large enough tax base to generate significant SBR revenues on their own.[49]

C. Ring-fencing of revenues

1. Clauses

Clause 3 relates to the use of money raised by a BRS. Among its provisions are the limits on how BRS revenues may be spent. These:-

- May only be used on the project for which the BRS was established;
- May be used for loan financing in connection with the BRS project;
- May not be used for expenditure that the authority would have incurred if the supplementary rate had not been levied;
- May not be used to provide housing, social services, education services, services for children, health services or services in connection with statutory planning functions (this list may be amended by regulation).

2. Commentary

Sir Michael Lyons was wary of creating detailed formal requirements at national level for the use of supplements. By way of an example, he said that ring-fencing revenues for capital expenditure or physical infrastructure would prevent them from being used on other services that might be prized by local businesses such as security, cleaning or town marketing. But, he said, once the purposes are agreed the revenues should be hypothecated to those purposes.

The Local Government Association argued for maximum flexibility in its submission to the CLG Committee:

> Rather than hypothecation, we would want to see the uses to which the SBR is to be put clearly stated in the consultation, but it should be made clear that it would not be ring-fenced in the event of changed plans and it would not require, for example, council auditors to sign off to say it had been used for these purposes and no other. It would be important for the local authority or authorities to give a report stating how the resources had been used. This would assist in transparency.[50]

The Committee, on the other hand, cited the concerns of the business community that the supplement might be used by councils as an easy way to raise extra funds. It recommended a statutory requirement that revenues be applied:

> …only to those specific projects and schemes deemed by the local authority and the business community to benefit the local business environment and identified in the initial proposals for the levy.[51]

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[49] Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, Centre for Cities evidence (SBR 17), para 31

[50] *Ibid*, LGA evidence (SBR 41), para 13

[51] Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para 27

The Government stated in the white paper that the supplement "…should only be used to finance additional investment in economic development."[52] But it cautioned that even a relatively wide definition of 'economic development' risked excluding activities which could potentially benefit the local economy. It concluded:

> **The Government therefore does not intend to produce a specification of legitimate spending. Instead it will set out areas of expenditure to which revenues from a business rate supplement cannot be put.** This will include the main statutory services such as social care and children's services. However, not all statutory services will be excluded. For example, some transport improvements can clearly have a positive impact on the local or sub-regional economy.
>
> In many cases, local authorities will wish to use revenues from business rate supplements in order to support borrowing to finance capital investment. The Government does not intend to restrict the use of supplements in this way beyond the existing requirements of the Prudential Code. If local authorities wish to use income for revenue spending or for direct capital expenditure they will retain the flexibility to do so, subject to the criteria set out elsewhere in this chapter. Borrowing under the Prudential Code will of course remain limited to capital investment.[53]

A range of suggested uses for BRS funds was given in the white paper, including:

- Upgrading existing transport infrastructure, e.g. roads and rail, or to support new projects such as new bus transit or light rail;
- Capital projects from business and convention centres to retail development and other infrastructure to support housing and development; or
- Revenues need not be used to support borrowing but, as with BIDs, could be used for revenue projects such as increasing the security or improving the environment of a business district.[54]

As to **additionality**, the white paper stated that supplements should only be used for investment that would not otherwise have taken place. It suggested that certain checks would be necessary and gave examples:

- Benchmarking of existing spending and service levels. Setting full three year budgets would provide a useful benchmark;
- Local authorities to list alternative funding sources and reasons why they have been rejected;
- Where a BRS is to support capital borrowing, an authority could be required to set out full borrowing plans distinguishing between those that will be undertaken if they levy a supplement, and the remainder.

[52] HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, para 2.16
[53] *Ibid*, paras 2.23-2.24
[54] *Ibid*, para 2.41

D. The approval process

1. Clauses

Clauses 4 to 9 set out the steps that must be taken before a supplement can be imposed.

a. Prospectus

Firstly, there must be a prospectus containing the information listed in **schedule 1**. This is to include:-

- A cost-benefit analysis of the project, description of the work required, planning consents, cost estimates etc;
- Expenditure plans including timescales and funding sources; methods by which the council will keep ratepayers informed;
- Details of the supplement including expected duration and any reliefs.

There is to be an “initial” prospectus setting out the BRS proposal as a basis for consultation and (where necessary) ballot. The “final” prospectus will give information on the supplement that will actually be levied and the project it will fund. The final prospectus is subject to approval by the full council except in London where it will be the Mayor’s responsibility.

b. Consultation

The consultation process must involve:-

- Persons liable to pay the BRS (including those who would be eligible if they were not receiving hardship or discretionary relief, or were not receiving relief under clause 15 or through a BID offset);
- Relevant lower tier authorities i.e. shire district councils in two-tier areas and London boroughs/ City of London;
- Other appropriate persons. In particular, the authority must consider whether to consult ratepayers who *might* become liable to BRS before the end of the charging period (e.g. because the rateable value of their premises is just under the threshold for exemption).

c. Ballot

A ballot must be held where the amount to be raised through a supplement accounts for more than one third of the estimated cost of the project. However, the levying authority may choose to hold a ballot in other circumstances (**clause7(1)(b)**). The wording of the question to be asked in the ballot is specified in **clause 7(3)**.

As with BIDs, the ballot operates on the “dual-key” principle. Firstly, a simple majority of those voting must vote in favour of the proposal, and secondly, those voting in favour must represent a majority *by rateable value* of the hereditaments (rateable premises). This mechanism offers some protection against large firms forcing through a BRS against the wishes of smaller firms, and vice versa.

Clause 10 sets down the conditions under which a levying authority may vary a BRS.

2. Commentary

Both Lyons and the CLG Committee rejected compulsory balloting of business as a pre-condition to the introduction of supplementary rates. Lyons said that a statutory balloting process would make it difficult to finance projects which might not be in the short-term interests of those affected but which would have widespread longer-term benefits. Moreover, where other funding streams were used it could add to the bureaucracy and complexity of a project. He did add, though, that it should be open to authorities to make a supplement subject to a vote if it was appropriate to the local situation.

The CLG Committee quoted evidence from the CBI and BCC in favour of balloting but went on to argue that:

> SBR is only a marginal variation on a well established, well understood and broadly accepted tax and we see no compelling reason why it should become the only tax in the UK upon which a specific ballot of those expected to pay is required.[55]

This echoed Lyons's comment that a ballot "…would not be consistent with the accountability arrangements for other taxes…"[56] However, the Committee did consider that a ballot would be necessary where the proposed variation in the business rate exceeded 10%, or 4p per £1 of rateable value (the Committee had recommended no cap on the supplement).

The Government's scheme involves statutory consultation by local authorities of businesses and other stakeholders. The white paper pledged that councils would be required to provide full information on expenditure plans, supplement and the project itself.[57] A ballot would only be required where the contribution supported by the supplement exceeded a third of the total cost of a project. The Government explained its thinking as follows in its second response to the CLG Committee:

> …where most of the cost of a project will be met by business, there is a risk that authorities will be less inclined to ensure value for money and effective targeting of spend. A ballot will provide a focus for authorities to ensure that projects reflect productive and effective expenditure. By contrast, giving business a vote in cases where supplement revenue will form only a small part of the total cost of a project could make it difficult to reach agreement, and opens up the possibility of businesses voting against, in the belief that the project would go ahead anyway.[58]

The CBI and other business lobby groups have called consistently for a mandatory vote for businesses affected. In its reaction to the Queen's Speech, the CBI's Director General said:

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55 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para 33

56 Lyons Inquiry into Local Government, *Place-shaping: a shared ambition for the future of local government: final report*, March 2007, p 300

57 HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, para 2.25

58 CLG Select Committee, *Local government finance - supplementary business rate, Government response to the Committee's third report…*, November 2008, HC 1200, 2007-08, p2

> The CBI wants, at the very least, for firms to be able to vote on every proposed local business rates supplement, so firms aren't saddled with a potential £1bn annual tax increase without a proper say in the process.[59]

E. Maximum level of supplement

Clauses 14(6) and 14(7) provide for a maximum supplement of 2p in the pound.

Commentary: Lyons believed that an upper cap on the supplement was essential. He thought that, while the standard cap might be set at a lower level than the highest BID supplements (4p in the pound, roughly equivalent to 10% on the uniform rate), it might be raised for "particularly significant projects" provided that there were more stringent approval mechanisms. The CLG Committee recommended no upper limit but a mandatory ballot where the proposed supplement exceeded 10% of the uniform rate.

A paper from the Centre for Cities, published in August 2007, considered that a 4p upper limit was unrealistic given the concerns of business and the potential impact on local economies. A 2p supplement (broadly equivalent to 5% on the national business rate) was "more achievable in the short term."[60] The Government opted for an upper limit of 2p, noting that in urban areas, or where authorities chose to collaborate and pool resources, revenues could support "one or two key capital projects."[61]

F. Exemptions and reliefs

1. Clauses

Clauses 11 to 17 are concerned with liability to BRS and incorporate provisions on reliefs and exemptions.

a. Threshold for exemption

Clause 12(1) provides that the threshold (in rateable value terms) below which a premises is exempt from BRS will be prescribed in regulations. The £50,000 threshold promised in the white paper would thus be enshrined in regulations made under this Act. Such regulations would be subject to the negative resolution procedure.[62]

b. Additional BRS reliefs

Clause 15 empowers a levying authority to introduce such reliefs from BRS as it considers appropriate. The Bill's explanatory notes state:

> Authorities could, for example, set a higher threshold for liability to the BRS than that prescribed under clause 12; introduce a taper (for example applying a multiplier of 1p for properties with a rateable value of less than a set amount, and

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[59] CBI, "CBI reaction to Queen's Speech", *News release*, 4 December 2008

[60] Ben Harrison and Adam Marshall, *City solutions: financing local growth – towards a supplementary business rate*, Centre for Cities Briefing Paper No 5, August 2007, p8, http://www.ippr.org/centreforcities/publicationsandreports/publication.asp?id=554

[61] HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, para 2.41

[62] See Clause 29(6)

a 2p multiplier for properties with higher RVs); or phase in BRS over a number of years (for example a 0.5p multiplier for years 1-5, 1p for years 6-10, and 2p for subsequent years).[63]

c. Impact on existing reliefs and liabilities

Other clauses in this group interweave the new supplement with existing rate reliefs and liabilities. Under **clause 11**, the owner of an **empty property** would not be liable for BRS if exempt from rates because a charity or CASC,[64] or if the levying authority has exempted the owners of empty property from paying a supplement. **Clause 12** has provisions relating to **partially occupied property**.

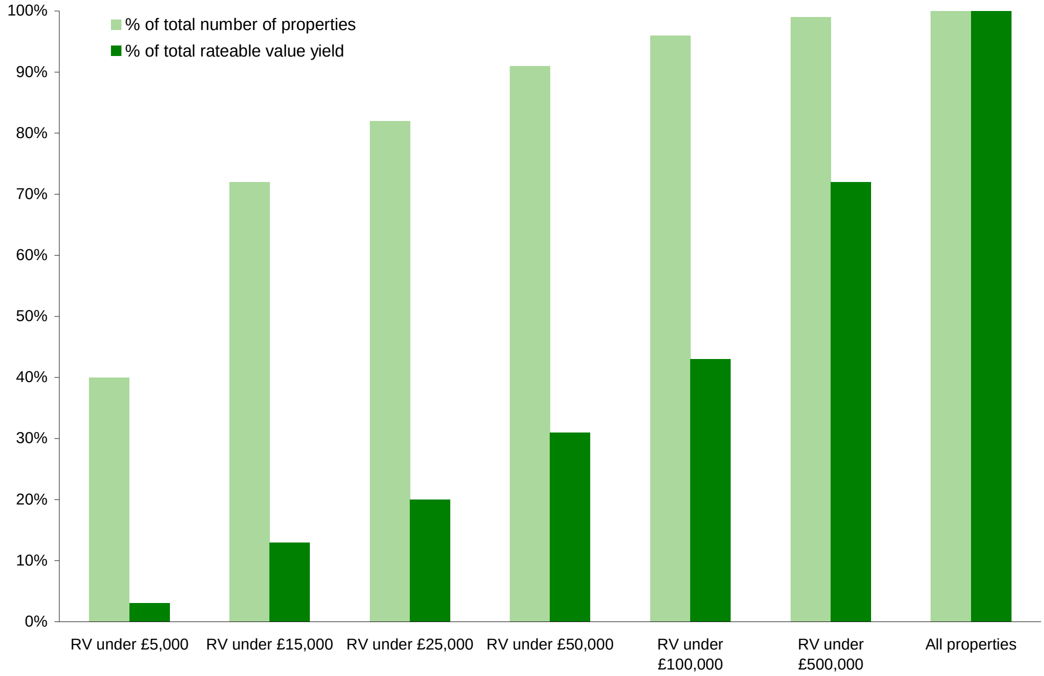
Clauses 13 and 14 set out the formulae for determining the daily chargeable amount of BRS. In essence, the ratepayer would pay the same proportion of supplement as he pays of non-domestic rate. For example, if a **charity** is entitled to mandatory relief of 80% in respect of a building with an RV above the threshold, it would expect to receive 80% relief on the supplement as well. In practice, the existing relief thresholds for **small businesses** and **rural shops** etc are well below the £50,000 BRS threshold so that the supplement would not apply to those in receipt of such reliefs. If, however, those thresholds were to be raised by a sufficient amount, or the BRS threshold were to be lowered, these formulae show how the chargeable amount would be calculated.

2. Commentary

Lyons pointed out, as shown in chart 1 below, that the smallest 90% of businesses represent only a little over 30% of rateable value (RV) so that an exemption for smaller businesses would not substantially reduce the yield. On the other hand, such an exemption might be considered unfair to larger businesses. He suggested that the Government set a threshold below which small businesses would not pay the SBR. However, there should be additional flexibility at the local level with councils and businesses able to decide whether there might be additional discounts or exemptions bearing in mind the purpose of the supplement and local economic conditions.

[63] *Business Rate Supplements Bill: Explanatory Notes*, para 44
[64] Community amateur sports club

Chart 1 - Cumulative distribution of properties by rateable value, England



Source: Table 3.1, Business rate supplements: a White Paper, Cm 7230

The CLG Committee had recommended that exemptions or discounts should be determined at the local level. It cited evidence from the CBI and others concerning the wide variations in average RVs across the country and also differences in the industrial and business make-up of localities. It said:

> Such considerations led several of our witnesses to argue for unfettered local discretion over exemptions and discounts. While national government has no choice other than to use crude measures to determine eligibility the combined local expert knowledge of the business community and the local authority provides an opportunity for SBR reliefs more finely attuned to the purposes of the supplement and to local economic conditions. **We therefore recommend that any decisions on exemptions and discounts, other than in relation to the public sector's liability, are made at local rather than national level.**[65]

The BRS scheme, as detailed in the white paper, proposes a nationwide exemption for business premises with a RV of £50,000 or less. The Government argued that a threshold would provide consistency for businesses and protection for smaller businesses.[66] There is, however, some additional flexibility on reliefs:

> In some cases, local authorities may wish to go further and provide more generous safeguards for local businesses. Or they may wish to introduce a taper

[65] Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para 56

[66] Communities and Local Government Committee, *Local Government Finance: supplementary business rate: Government response,* January 2008, HC 210 2007-08 p11

> above the £50,000 threshold in order to provide a smoother transition. The legislation will enable them to do so.[67]

The white paper used research by the Institute of Fiscal Studies on the relationship between RV and turnover to arrive at a rough assessment of the impact of BRS by size of business. It noted that a business with an RV of more than £50,000 would on average have a turnover of at least £1.1 million. ONS data shows that approximately 90% of registered enterprises have a turnover below this level.[68]

The Federation of Small Businesses along with the British Chambers of Commerce and Institute of Directors suggested, in their response to the white paper, certain "improvements" to the BRS scheme should it make it onto the statute book. These included:

> - Exemptions for businesses not eligible for Supplementary Business Rates should be automatic and should not require any application process, to cut down on red tape.
>
> - The proposed rateable value threshold of £50,000 below which ratepayers would not pay the Supplementary Business Rate must not be reduced.[69]

G. BID offsets[70]

Clause 16 allows levying authorities to offset payment of Business Improvement District (BID) levies against a liability to pay BRS. Where the authority opts to do this, the BID levy is deducted from the BRS liability to give the chargeable amount. An authority's rules on BID levies must apply uniformly to BIDs throughout the levying authority's area.

Commentary: The Rating Surveyors' Association predicted in evidence to the CLG Committee that the introduction of supplementary rates would mean the end of BIDs since "businesses would not countenance paying for both."[71] Sir Simon Milton, then Leader of Westminster City Council, said in October 2007 that the Borough's three "highly-successful" BIDs would be endangered by a mayoral power to levy supplementary rates. "If there are two, separate, supplementary rates, businesses may simply be unable to afford to pay both" he said. Businesses would, in all probability, reduce their contributions to the BID and, as a result, money contributed by Westminster businesses could "no longer be focused on local priorities."[72]

The CLG Committee observed that the consensus among its witnesses was that BIDs had proved "popular and effective" and it did not wish to see them discouraged or undermined by rate supplements. It therefore recommended that, if an SBR is introduced

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67 HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, para 2.54

68 *Ibid*, para 3.12

69 FSB/ BCC/ IOD, "United opposition to proposed supplementary business rate", *News release*, 11 October 2007

70 BIDs are discussed in the final section of this paper.

71 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, Rating Surveyors Association evidence (SBR 7), pEv 27

72 City of Westminster, "Westminster calls on Government to scrap new Mayoral tax powers", 31 October 2007, http://www.westminster.gov.uk/councilgovernmentanddemocracy/councils/pressoffice/news/pr-3986.cfm

in an area where a BID is already operating, there should be an offset for BID contributors against their SBR liability.[73] The Government responded that it shared the Committee's concerns but believed that decisions on offsets should be taken locally. This was because: (a) some businesses paying a BID levy would not be liable to pay the supplement because of the £50,000 RV threshold, and (b) in some cases the additional BID liability would reflect additional benefits received by those in the BID.[74]

H. Administration and costs

Clauses 18 to 23 and **schedule 2** (on accounting) are concerned with the administration of BRS. Readers are referred to the Bill's explanatory notes for a summary of these provisions.

Commentary: The Bill's regulatory impact assessment makes the following point about the costs of administration:

> Billing authorities[75] will have to adapt their systems to cater for the collection and transfer of BRS revenue to the upper-tier authority. Where collection of BRS is carried out as part of the annual billing round, the costs of collection will be met from the BRS revenue. Where billing is undertaken as a separate exercise, the costs of collection will be met from the upper-tier authority's own resources. The details of these arrangements will be dealt with in the consultation paper on proposals for secondary legislation which will be published during the passage of the Bill.[76]

A later passage in the RIA refers to responsibility for other costs, as follows:

> We expect the local authorities to be the driving force behind projects aimed at promoting economic development. As such, the costs involved in the preparation of a prospectus, undertaking consultation and in holding a ballot will be met by the levying authority. This does not, however, exclude businesses from contributing to the set-up costs on a voluntary basis.[77]

I. Power of cancellation

Clause 24 gives a power to the Secretary of State (or Welsh Assembly Government Ministers) to cancel a BRS where it believes that a levying authority has acted in a way that is "materially inconsistent" with the information provided by it. This may be information given in the prospectus, in any document varying the prospectus, or provided during the process of consultation or ballot on a BRS. The Secretary of State would be empowered to direct the levying authority to cancel the BRS and, if it seems reasonable to him/her, to return to the ratepayers the money they have paid to date.

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73 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para 59

74 Communities and Local Government Committee, *Local Government Finance: supplementary business rate: Government response,* January 2008, HC 210 2007-08, p12; see also white paper para 2.81

75 In two tier areas outside London, non-domestic rates are collected by district councils. In London, NDR is collected by the boroughs. BRS will be collected by those authorities.

76 DCLG/ HM Treasury, *Business Rate Supplements Bill 2008: Impact Assessment*, December 2008, para 20

77 *Ibid*, para 26

Commentary: A joint letter to the Chancellor from the heads of the Institute of Directors, British Retail Consortium, British Chambers of Commerce and Federation of Small Businesses in March 2008 argued (a) for a mandatory ballot as well as formal sign-off by the Secretary of State before the introduction of any BRS scheme, and (b) that the cost of the ballot should not be passed onto businesses nor come from projected BRS revenues.[78] The white paper expressly stated that the Secretary of State would not take power to approve supplements or projects. But there would be a reserve power to intervene if the conditions of a supplement were breached.[79]

J. Use of BRS for pre-existing projects

Clause 27 provides that no BRS may be levied before 1 April 2010. Further, it allows pre-existing projects, i.e. those which have started before the power to levy a BRS has been brought into force, to benefit from a BRS. The window for this closes on 1 April 2012 so that a supplement designed to finance such a project must be in operation before that date. Pre-commencement guidance issued by the Secretary of State may be relied on by levying authorities for the purpose of levying a BRS during the period up to 1 April 2012.

K. Territorial extent

The Bill extends to England and Wales. Apart from clause 27 (special introductory provision), the Act applies equally to England and Wales. Powers conferred on the Secretary of State are exercisable by Welsh Assembly Government Ministers.

IV Other issues

A. Maximum duration

Sir Michael Lyons did not favour a universal time limit on supplementary rate schemes because infrastructure investments can run for many years. Instead, he recommended that a SBR proposal should include a clear timetable. The CLG Committee agreed with this. The Committee recommended:

> …that SBR proposals include a clear timetable pegged to project milestones rather than absolute time periods where this is more appropriate. The timetable should include safeguards for both ratepayers and council tax payers against project overruns and, in the case of council tax payers, against any long-term financing costs arising from SBR projects.[80]

The CBI had advocated in evidence to the committee a centrally-set limit on the duration of supplements. It explained:

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78 *Letter to Chancellor – Business Rate Supplements*, Institute of Directors/ British Retail Consortium/ British Chambers of Commerce/ Federation of Small Businesses, 6 March 2008; referred to in “Business warns against council levy”, *Financial Times*, 12 March 2008, p6

79 HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, para 2.55

80 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para 72

> This would have the advantage of giving greater certainty to businesses so that they could plan for the additional cost. It would also provide greater assurance about the efficiency and effectiveness of delivery since the project would have to be delivered within that timescale.[81]

The Government concluded as follows:

> **2.28** Good practice for debt financing suggests that the lifetime of the debt should approximately equate to the lifetime of the asset. Taking into account construction periods, this could be as long as twenty or thirty years for many major projects.
>
> **2.29** A national maximum limit on duration of this magnitude would be unlikely to provide significant benefits to business and could also increase the cost of debt to local authorities, as they are less able to manage risk.
>
> **2.30 The Government does not, therefore, intend to set a national maximum limit on the duration of supplements.** Instead local authorities will be expected to set out their plans as part of the vote or consultation exercise. Given that use of the supplement would be restricted to the project specified in the consultation or vote, a supplement would cease once any debt had been fully repaid.[82]

It further recommended that authorities seek expert advice on their plans and on the reliability of the assumption on which the plans are based. It promised to establish a national project panel to assist authorities in this regard.

B. Size of revenues and geographical distribution

Lyons estimated that a 1p in the pound supplement across England would raise something over £400m per annum. This assumed no impact on rateable values from the higher rate and, additionally, Lyons could not factor in the Government's eventual decision on the threshold for exemptions. He noted that there would be substantial variation between localities in the amounts that could be raised depending on the size of the authority and the number and value of properties in the area. He also considered it essential that SBR revenues could be used to support borrowing.

Table 1 shows the maximum revenue that could be raised in a selection of different areas from a 2p supplement, based on 2007 rateable values. The areas selected are intended as "…an illustrative cross-section by area size, type and geography."[83] Should these illustrative supplements go ahead, the total raised would be £319.3m per annum.

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[81] Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, CBI evidence (SBR 42), para 24

[82] HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, p18

[83] *Ibid*, para 2.40

Table 1
Amount raised from 2p BRS in selected areas

	£m
Greater London	177.9
Greater Manchester (10 authorites)	28.9
West Midlands (7 authorities)	27.5
West Yorkshire (5 authorities)	20.1
Lancashire	7.8
Essex	12.1
Hampshire	12.3
City of Manchester	9.0
Sheffield	5.9
Bristol	4.8
Newcastle	4.0
Nottingham	4.2
Milton Keynes	4.8

Source: Table 2.1, Business rate supplements: a White Paper, Cm 7230

Table 2 shows the potential revenues assuming full take-up of BRS by all local authorities.

Table 2
Rateable values and potential BRS revenue, by region

	Total RV of all properties		Of properties with RV > £50,000		Amount raised by 2p supplement
	£bn	% of total	£bn	% of total	£m
East Midlands	3.1	6.7%	2.0	6.3%	37.8
East of England	4.6	9.9%	3.1	9.7%	57.9
London	12.4	26.8%	9.6	30.0%	177.9
North East	1.6	3.5%	1.1	3.4%	20.4
North West	5.4	11.7%	3.5	10.9%	66.1
South East	7.5	16.2%	5.2	16.3%	97.4
South West	3.6	7.8%	2.2	6.9%	41.1
West Midlands	4.3	9.3%	2.8	8.8%	52.1
Yorkshire and the Humber	3.8	8.2%	2.5	7.8%	46.4
England	**46.3**	**100%**	**32**	**100%**	**597.1**

Source: Table 3.4, Business rate supplements: a White Paper, Cm 7230

A Centre for Cities paper published in August 2007, spoke of the "significant positive impact" of supplementary rates on urban infrastructure investment but warned that the potential benefits of a supplement are significantly reduced in smaller urban areas with low tax bases (Middlesbrough was cited as an example). Indeed, SBR would not be a "viable policy option" in those parts of the country with "small or fragile" business bases.[84] Dermot Finch, Director of the Centre for Cities, commented as follows in his oral evidence to the CLG Committee:

[84] Ben Harrison and Adam Marshall, *City solutions: financing local growth – towards a supplementary business rate*, Centre for Cities Briefing Paper No 5, August 2007, pp5-6, http://www.ippr.org/centreforcities/publicationsandreports/publication.asp?id=554

> …this SBR proposal is definitely more suited to urban areas where, incidentally, we did research last year in Liverpool, Birmingham and Barnsley where businesses told us, and local authorities told us, that if an SBR were to go live it ought to be hypothecated towards transport infrastructure. They felt that was the priority and that would secure business buy-in. It is admittedly less useful for towns with a small business base, with rural areas, for example, but that is not a reason not to pursue SBR.[85]

The CLG Committee recommended that ministers should bring forward alternative measures to BRS to help those councils and business communities in less urbanised and rural parts of the country who may be seeking funds for local investment.[86] The Government emphasised in reply the "parallel measures" it was taking forward such as the creation of a focused statutory economic duty for local authorities, delegation of some funding by regional development agencies and reforms to the LABGI scheme.[87]

C. Why not business rate reductions?

Geoffrey Robinson argued for reductions in business rates in a Commons debate on BIDs in Coventry:

> I told the chief executive of the BID company that the best thing to do to ensure that Coventry is seen as a good place to do business from is to reduce the business rate, which would be welcomed all round. People would flock to Coventry if the rate was significantly reduced; otherwise, it will become increasingly difficult to sell.[88]

The Government's original scheme for a supplementary rate, announced in the 1998 local government white paper and set out in detail in a 2000 green paper, had envisaged the possibility of allowing local authorities to give rebates on the national rate provided that they funded the difference.[89] That scheme was dropped in favour of BIDs, but the Government did accept in the BRS white paper of 2007 that consideration must be given to rebates, as well as to supplements, on business rates. However, the paper made the following additional points:

- Given the potential revenue consequences of a reduction in rates, the authority would need to reimburse the national business rates pool for the sums forgone through the reduction. This would ensure that the consequences of any reduction were fully considered;

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85 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, Oral evidence, Q95

86 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-I 2006-07, para39

87 Communities and Local Government Committee, *Local government finance: supplementary business rate: Government response to third report…*, November 2008, HC 1200 2007-08, para 29. LABGI is the Local Authorities Business Growth Incentive Scheme, a scheme which seeks to reward local authorities for growth in their business base by returning a proportion of the business rates generated.

88 HC Deb 13 May 2008 c407WH

89 DTLR, *Modernising local government finance: a green paper*, September 2000, para 5.12, http://www.local.communities.gov.uk/greenpap/index.htm

- Authorities with large tax bases would have to find considerable sums to fund a reduction. Conversely, those with small tax bases would find it much easier to reduce rates;

- Businesses already receive protection through the RPI cap and the Government is committed to low council tax rises. “It would clearly be unacceptable therefore were a power to lower rates to result in a significant unplanned shift in the burden of taxation from business rates to council tax” (para 2.48);

- State aid issues arising from a policy of allowing reductions in rates would need to be fully considered.[90]

The Government said in the white paper that it would discuss with business, local government and other stakeholders the case for allowing rate reductions.

V Business rates and local government finance

The reference in the previous section to the “RPI cap” for business relates to the provision in rating legislation that the Government may not increase the multiplier each year by more than the rate of inflation. Moreover, non-domestic property is revalued every five years but if, at revaluation, rateable values rise in aggregate, the multiplier falls so that the overall yield is maintained (but not increased) in real terms.

The Conservative administration’s green paper of January 1986, *Paying for local government*, which paved the way for the uniform business rate, stated:

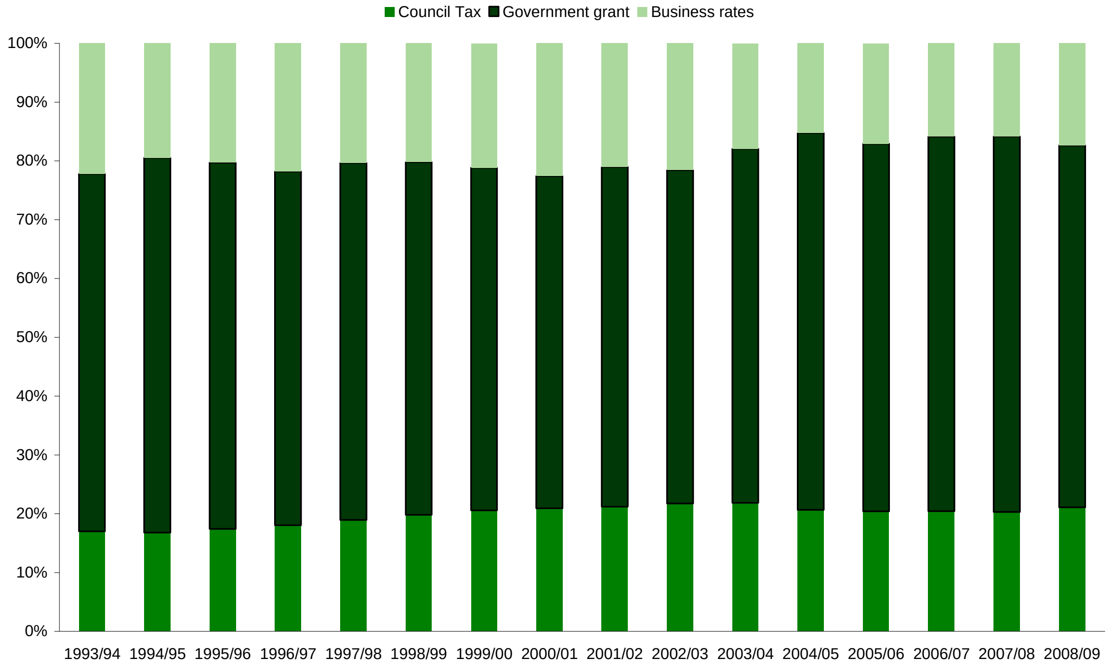
> Future increases in the poundage would be linked to the rate of inflation: this would ensure that business rates continued to meet a fair share of local spending in future years, and that increases were predictable and allowed businesses and local authorities to plan ahead with confidence. Indexation should be provided for in primary legislation so that the arrangements could not be overturned without fresh consideration by Parliament.[91]

Chart 2 shows how much of local authority expenditure in England and Wales has been financed by council tax, government grants and business rate income. It illustrates the point made by Sir Michael Lyons that business rates have provided a declining proportion of local government spending over time.

[90] HM Treasury/ DCLG, *Business rate supplements: a white paper*, Cm 7230, October 2007, paras 2.46-2.49

[91] *Paying for local government*, Cmnd. 9714, January 1986, para 2.27

Chart 2 - Proportion of local authority expenditure financed by Government grants, council tax and business rate income, England and Wales



Source: Finance and General Statistics, CIPFA

VI London and Crossrail[92]

Crossrail is the plan to integrate the mainline railways to the east and west of London through the construction of two tunnels beneath central London from Paddington to Liverpool Street. The Government opted in the BRS white paper for a London-wide supplementary rate to be set by the Greater London Authority. The Comprehensive Spending Review, delivered at the same time as the white paper, indicated that BRS in London would be used to finance part of the expected £16bn cost of Crossrail. The CSR document stated:

> Following discussions with the Government, the mayor has indicated that, subject to appropriate consultation, he envisages using these powers to levy a supplement of two pence per pound of rateable value across London from April 2010, with relief for businesses with a rateable value below £50,000, which will be used to service £3.5 billion of debt raised by the Mayor during construction.[93]

Councillor Merrick Cockell, Chairman of London Councils, had argued against a regional-only scheme in oral evidence to the CLG Committee in June 2007. He said that, whilst businesses in areas that will benefit directly from Crossrail would consider it a worthwhile investment…

> …for whole swathes of London, Crossrail is just a line on a map and will not have any direct bearing on them. They want to see value literally on their doorstep…If

[92] A synopsis of the Crossrail project and of the issues surrounding it can be found in a Library note – Railways: Crossrail (SN/BT/876)

[93] HM Treasury, *Meeting the aspirations of the British people: 2007 Pre-Budget Report and Comprehensive Spending Review*, Cm 7227, October 2007, chapter 4, p58, http://www.hm-treasury.gov.uk/3644.htm

> businesses are going to pay more, they will want to see better policing in their area, perhaps 24-hour policing, perhaps better cleansing of public areas, the sort of things that will attract people to come and visit that area and spend their money but also attract employees to want to join their organisations because it is in a civilised, well-kept part of London.[94]

A paper written in April 2008 for the Leaders' Committee of London Councils said that the Government's decision to publish a white (rather than a green) paper on supplementary rates had deprived London boroughs and business organisations of the chance to influence how the scheme would work in London. It calculated that a 2p supplement would raise £187.3m per year and said that over half of that amount (£96m) would come from ratepayers in just four boroughs – Westminster, City of London, Camden and Hillingdon. It pointed out that there was a "weak" relation between the amounts raised in different boroughs and the route of Crossrail. This, it suggested, might be a concern to ratepayers in areas which do not benefit directly from Crossrail.[95]

The then Mayor, Ken Livingstone, had contended in his submission to the CLG Committee that:

- it should be the Mayor who takes strategic decisions for the improvement of the *whole* capital rather than individual boroughs;
- a possible 33 separate supplementary rates would be confusing for business;
- business activity in London is inter-connected (for example 61% of people live in a different borough from the one in which they work).

His analysis of the benefits that would accrue to business, and particularly large-scale businesses, throughout London included the following passage:

> [Crossrail] is a strategic project which will bring enormous economic benefits to the whole of London, directly and indirectly, and beyond. Crossrail's route includes 8 of the top 10 boroughs with the fastest forecast absolute growth in jobs between 2003-26. Crossrail will also generate additional national tax revenues of at least £12bn. Transport for London (TfL) has calculated that Crossrail will provide 40% of the extra rail capacity London needs by 2015. It will significantly reduce congestion on all the lines in central London, benefiting commuters from all London boroughs.

London First, a business membership organisation, has campaigned on behalf of Crossrail and stated its belief that the Mayor should be able to raise extra funds from business for such "exceptionally important" projects. It said in evidence to the Committee:

> Projects of this kind are likely to be few and far between. Currently only Crossrail falls into this category and it is likely that the business contribution to it will exhaust the capacity of the London business community to make such contributions for

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94 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, Oral evidence, Q6

95 London Councils, Business rate supplement: report for Leaders' Committee, 1 April 2008, http://www.londoncouncils.gov.uk/London%20Councils/BRSreport2.doc

> some time to come. The funding package for any further project of this kind should be considered on its own merits and should have its own legislation.[96]

VII Other schemes for varying business rates

A. Business Improvement Districts

BIDs are partnerships between local authorities and local businesses which are intended to provide additional services or improvements to a specified area. A BID must be agreed by ballot and is funded in whole or in part by a levy additional to the non-domestic rates. The idea originated in Canada and was developed with some success in the USA. BIDs were credited with rescuing Times Square in New York from decline as well as transforming other rundown areas particularly within cities such as Washington and New York. A key difference between American and British BIDs is that the former are agreed with property owners who can expect to benefit from an uplift in property values if the BID is successful. In England and Wales, it is the occupiers of buildings who vote and pay (although property owners may propose a BID).

In April 2001, the then Prime Minister, Tony Blair, announced that the Government had decided to introduce legislation to allow for the creation of BIDs. The approach would build on the "very successful business model in the USA."[97] Further information on how BIDs would work was given in the local government white paper of December 2001.[98] On the question of benefits, the white paper said:

> The starting point in establishing a BID will be the identification of a gap or weakness in the services provided by local authorities, which is a source of concern to local businesses. In America, BIDs often focus on the problems of a run-down or unsafe town centre, where businesses are prepared to pay increased taxes to secure preventative measures (more frequent policing, installation of CCTV cameras and litter bins), remedial measures (a rapid responses to graffiti and litter, replacing street lamps, mending pavements) and investment in the visual appearance of the area (new street furniture, tree-planting, etc). But the same approach can be applied to other types of problem – by providing local training and employment schemes or funding a more frequent rural bus service. The important point is that both parties – the authority and business community – are clear what problem they want tackled and what specific measures they want taken to deal with it.[99]

The *Local Government Act 2003* provided the statutory basis for BIDs, and regulations made under the Act set out the detailed requirements for BIDs in England.[100] The first

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96 Communities and Local Government Committee, *Local Government Finance: supplementary business rate*, August 2007, HC 719-II 2006-07, London First evidence (SBR 44), para 20

97 DETR, "Blair unveils BIDs: a scheme to improve local quality of life", *News release 234*, 24 April 2001

98 *Strong Local Leadership – Quality Public Services*, Cm 5237, December 2001

99 *Ibid*, Part 2, chapter 7, p111

100 The *Business Improvements Districts (England) Regulations 2004*, SI 2004/2443. Government guidance on the regulations is available on the DCLG website: http://www.local.communities.gov.uk/finance/busrats1.htm

ballots took place at the end of 2004 and, at the time of writing, there are nearly 70 BIDs in operation in England and Wales.[101] Key features are as follows:-

- A billing authority is responsible for making BID arrangements but a BID may be proposed by ratepayers, billing authorities and other specified persons;
- All non-domestic ratepayers in the BID area vote on the proposal in a ballot. Approval for the proposal in the ballot has to meet two tests: firstly, a simple majority of those voting in the BID ballot must vote in favour; secondly, those voting in favour must represent a majority by rateable value of the hereditaments (i.e. rateable properties) of those voting. This "dual-key" mechanism offers some protection against large firms forcing through a proposal against the wishes of small firms, and vice versa;[102]
- A BID may apply to all non-domestic ratepayers in the BID area or to specified categories of ratepayer;
- Many BIDs cover town centres and business or industrial parks but a BID may cover any area in which businesses see a need for it. BIDs may cross local authority boundaries;
- A BID may not operate for longer than 5 years although it may be renewed by ballot for further periods;
- The levy does not have to be based on rateable value and no limit is placed on the size of the levy. In practice, a 1% levy has been adopted by many English BIDs while the highest rate is 4%. Few town centre BIDs have adopted levy rates above 1%;[103]
- BID projects are not specified in, or limited by, the legislation. UKBIDs states on its website that "…improvements may include extra safety/security, cleansing and environmental measures, improved promotion of the area, improved events, and greater advocacy on key issues."[104] An important benefit for local authorities is that BIDs can offer greater contact and closer relationships with business.[105]

B. City of London

Since uniform business rate was introduced in 1990, the City of London has had a power to levy a local supplement on the national rate or to give a rebate. This power was not used until 2003 when, following consultation, a slightly higher multiplier was adopted to

[101] Further information on each can be found on the UKBIDs website - http://www.ukbids.org/BIDS/index.php BIDs have also been introduced in Scotland.

[102] Consultation paper on the *Draft Business Improvement Districts (England) Regulations 2004*, ODPM, 2004

[103] This information taken from: Communities and Local Government Committee, *Local government finance: supplementary business rate*, August 2007, HC 791-II 2006-07, British BIDs evidence (SBR8),

[104] http://www.ukbids.org/timetable.php

[105] York Consulting, *The development and implementation of Business Improvement Districts*, DCLG, January 2007, p8 http://www.communities.gov.uk/publications/localgovernment/developmentimplementation

pay for increased security costs. Michael Snyder, then Chairman of the Corporation's finance committee, said that the City was:

> …not well served by the national system for police funding because its resident population is very small – only around 7,000 – yet its daily population is more than 300,000.[106]

The "City premium" was originally set at 0.3 pence in the pound (0.7%) but was increased to 0.4 pence (0.9%) in 2006-07 and has remained at that level since.[107]

C. Enterprise Zones

Enterprise Zones (EZs) were introduced by the Thatcher administration in the early 1980s. They are of interest in the context of variable rate schemes although they actually involved complete exemption from rates at a time when the latter were set locally rather than centrally. EZs were the brainchild of the then Chancellor of the Exchequer, Geoffrey Howe, who announced details in his Budget of 26 March 1980:

> We are proposing to establish, in the first instance, about half a dozen enterprise zones, with the intention that each of them should be developed with as much freedom as possible for those who work there to make profits and to create jobs. Each will cover perhaps 500 acres. Within these zones two major tax incentives will be available – first, 100 per cent capital allowances for both industrial and commercial buildings; and secondly, complete relief from development land tax.
>
> But fiscal concessions are only part of what is needed. These zones will, therefore, enjoy the following additional benefits – 100 per cent derating of industrial and commercial property; a drastically simplified planning scheme; exemption from the scope of industrial training boards – with consequent exemption from industrial training levies; accelerated handling of applications for warehousing free of Customs duty; minimal requests from Government for statistical information and abolition of the remaining industrial development certificate procedures.[108]

In 1981/82 the Government designated 11 EZ sites, and in 1983/84 a further 14 EZ sites were designated. Two high-profile developments which arose from enterprise zones were the MetroCentre in Newcastle/Gateshead, and Canary Wharf on the Isle of Dogs. Michael Heseltine records in his memoirs that Paul Reichmann, the developer of Canary Wharf "…was undoubtedly attracted by the financial incentives created by Geoffrey Howe's Enterprise Zone."[109]

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[106] "Returning of ring of steel as City braces itself", *Evening Standard*, 10 January 2003

[107] See City of London, "City of London sets council tax and business rates leaving Square Mile residents with the third lowest bills in London", *News release*, http://www.cityoflondon.gov.uk/Corporation/media_centre/files2008/City+of+London+sets+council+tax+and+business+rates.htm

[108] HC Deb 26 March 1980 cc1488-9

[109] Michael Heseltine, *Life in the jungle*, Hodder & Stoughton, 2000, p397

There have been various evaluations of EZs over the past twenty years. Research commissioned by the then Department of the Environment and published in 1995 covered 22 of the 25 zones.[110] Among its findings were the following:

- There were over 5,000 companies on the 22 Zones by 1990, employing nearly 126,000 people. Of the jobs, 59,700 were in the urban Zones, 59,200 in the accessible Zones and 6,800 in the remote Zones. After allowing for deadweight and displacement, and including short term multiplier effects, it is estimated that about 58,000 jobs were additional to those which would otherwise have been created in the local areas. Such 'additionality' was highest amongst manufacturing industry and lowest for retailing and distribution activity.

- Cost per job year at 1994/95 prices is estimated to have been in the region of £1,700 per year (on the standard assumption of a ten year job life, this would amount to a total of £17,000 per job). If expenditure on rates relief and capital allowances is discounted back to the year of take up (at 6% per year), the estimated cost rises to £2,100 per year.

- Between 1981/82 and 1992/93 the total public sector cost of the 22 Zones is estimated to have been between £798-£968 million (depending on the methodology adopted to discount the public costs incurred). About 57% of the total cost was incurred in the 6 urban Zones, 39% in the 13 accessible Zones and 4% in the 3 remote Zones. Rates relief accounted for some 46% of the total cost, enhanced capital allowances for 45 % and infrastructure and land acquisition for 9%.

- The most important benefit in attracting firms to locate on Zones was the availability of rates relief, with the enhanced capital allowances, the relaxation of statutory planning requirements and the availability of premises also being important factors.

- More than £2 billion (1994/95 prices) of private capital was invested in property on the twenty two Zones between 1981/82 and 1992/93. This represents a public to private leverage ratio of about 1:2.3. The bulk of the property investment has been in the urban Zones and a relatively small proportion in the remote Zones.

- There has been considerable environmental improvement on the Zones through the removal of dereliction and this has had an influence on companies' decisions to move to the Zones.

- Following de-designation and the restoration of business rates, 82 % of the firms who responded said there would be no effect on their current employment levels, although 18% felt that there would be a decrease in employment. Amongst these latter firms the mean expected decrease in numbers of employees was 22%, giving an anticipated total reduction in jobs amongst existing companies on Zones of about 4%.[111]

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[110] Those excluded were in Belfast, Londonderry and the Isle of Dogs, all of which were the subject of separate studies

[111] DOE, *Urban research summary No. 4 1995: Final evaluation of enterprise zones*, http://www.communities.gov.uk/archived/general-content/citiesandregions/finalevaluation/

D. The Government's original BRS scheme

The 1998 white paper, *Modern local government: in touch with the people,* stated that the uniform business rate would be retained but that the Government intended to give local authorities some discretion over local business rates provided that effective arrangements were in place to involve the business community in such decisions.[112] Detailed proposals on how the local supplementary rate might work in practice were given in a green paper published in September 2000.[113] The proposals were:

- The annual increase in supplementary rate would not be allowed to exceed 1% of the national rate paid by the businesses affected. There would be a maximum overall limit of 5% (in other words it would take at least five years for a council to raise a supplement of this level); The supplementary rate could be restricted to part of an authority or to a specific group of ratepayers. So could a local rebate. High performing authorities might be allowed to levy a higher rate in particular areas provided the businesses concerned agreed;

- No authority could levy the supplementary rate until it had established a 'partnership arrangement' which would bring together business representatives in a forum tailored to local circumstances;

- The partnership agreement should be as simple and flexible as possible but it had to be fully representative of local business; it could also be used for discussing a wide range of issues of common interest;

- In two-tier areas (London and the counties) there would be a single partnership arrangement covering both tiers who would agree a shared supplementary rate;

- Funds raised by the supplementary rate would be retained by the council for use on projects agreed with ratepayers through the partnership arrangement. If agreement could not be reached, the money would be surrendered to the national rate pool for redistribution to all local authorities.

The House of Commons Environment, Transport and Regional Affairs Select Committee had considered the outline scheme in its report on *Local government finance*, published in May 1999.[114] The Committee had expressed doubt about the value of the supplementary rate proposed:

> The main purpose of this new rate, according to Mr Mark Lambirth of the DETR, is to secure improved relations between local authorities and the business community. The Government plans to use the proposed supplementary business rate to 'test' whether local authorities can establish an effective dialogue with their local businesses. Only once local government can demonstrate this will Government consider vesting "greater financial responsibility in local government".

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112 Cm 4014, July 1998, chapter 10, http://www.communities.gov.uk/archived/general-content/localgovernment/archivedlocalgovernment/

113 DTLR, *Modernising local government finance: a green paper*, September 2000, http://www.local.communities.gov.uk/greenpap/index.htm

114 HC 78 1998-99

> Businesses have mixed views about the prospect of a supplementary local rate. Local authorities are cautiously interested in it, but many of them complained that they are not radical enough and would not have a material impact on gearing.
>
> We are concerned that the introduction of the supplementary local business rate may not make sense, given the relatively trivial levels of revenue local authorities will be able to raise. Amounts raised would be either very small… or small in the context of an authority's overall budget. The bureaucracy involved in re-calculating the bills of businesses together with the setting up of 'stakeholder' meetings would be ludicrously uneconomic, and we would therefore be surprised if the proposals prove attractive to many authorities.[115]

In the event, the plans for a supplementary rate were dropped in favour of a BID scheme (see above). The Regulatory Impact Assessment (RIA) published with the *Local Government Bill 2002-03,* which introduced BIDs, gave the Government's reasons for abandoning the local supplementary rate:

> From their responses to the Green Paper it is clear that many local authorities saw the supplementary rate as primarily a means of raising revenue, and the requirement to have a partnership agreement was seen as a burden on the resources of local authorities. The 'cost' seemed disproportionate to the additional revenue the supplementary rate would generate. Businesses felt that they would have no means of avoiding the supplementary rate once they had entered into partnership agreements. They therefore thought that businesses would vote against the partnership arrangements and thus the supplementary rate could become an obstacle to partnership working, rather than facilitating it. There was also a real risk that the supplementary rate powers would not be used in many areas of the country.[116]

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[115] *Ibid*, paras 40-41, page xv11
[116] ODPM, *Regulatory Impact Assessment – Local Government Bill*, 28 November 2002.