



RESEARCH PAPER 09/12
11 FEBRUARY 2009

Business Rate Supplements Bill: Committee Stage Report

This is a report on the Committee Stage of the *Business Rate Supplements Bill 2008-09*, produced in response to a recommendation of the Modernisation Committee in its report on *The Legislative Process* (HC 1097, 2005-06).

The Bill proposes to allow 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. In London, it is proposed that the supplement will part-finance Crossrail.

The Bill was not amended in Committee.

Keith Parry

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Summary of main points

- In October 2007, the Government published *Business rate supplements: a white paper* (Cm 7230). It proposed the introduction of a power for local authorities to raise and retain local supplements on the national business rate in order to fund economic development projects. This had been recommended by the Lyons Inquiry.
- The Bill seeks to give legislative effect to the above scheme. 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 GLA;
 - BRS revenues must be spent on economic development;
 - a national upper limit of 2p per £1 of rateable value will apply;
 - levying authorities are required to consult with business, and to produce a detailed prospectus, before introducing any BRS scheme;
 - a ballot of ratepayers 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.) Local authorities may offer additional reliefs;
 - the Bill extends to England and Wales. Powers conferred on the Secretary of State are exercisable by Assembly Government Ministers in Wales.
- The Mayor of London intends to use the London-wide supplement to help pay for Crossrail.
- The Bill was introduced into the Commons on 4 December 2008 and received its second reading on 12 January 2009. A Public Bill Committee considered the Bill in seven sittings from 20 January to 3 February 2009 inclusive. No amendments were made.
- Significant areas of debate in committee included the following:
 - whether ratepayers should be balloted on the introduction of any BRS scheme (regardless of the proportion of the cost funded by the supplement);
 - whether Crossrail should be exempted from any such ballot; and whether rate supplements should be confined to London;
 - issues surrounding the proposed national threshold for exemption (property with a rateable value of less than £50,000);
 - whether there should be an offset for businesses who pay a business improvement district (BID) levy as well as being subject to a business rate supplement.

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I Introduction

Sir Michael Lyons recommended a supplementary business rate 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 businesses.¹

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

The *Business Rate Supplements Bill 2008-09* seeks to give legislative effect to the scheme outlined in the white paper. The main features of the BRS scheme are:

- only the highest tier of local authority is to be entitled to levy a business rate supplement (BRS); in London the power is to 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;
- levying authorities are required to consult with business, and to produce a detailed prospectus, before introducing any BRS scheme;
- a ballot of ratepayers 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 are to be exempt (the Government has stated that the threshold will £50,000, but this is to be specified in regulations);
- levying authorities will be able to offer additional reliefs;
- the Bill extends to England and Wales. Powers conferred on the Secretary of State are exercisable by Assembly Government Ministers in Wales.

The Bill was introduced into the House of Commons on 4 December 2008 and debated in second reading on 12 January 2009. Committee stage commenced on 20 January and continued until 3 February. There were seven sittings, with oral evidence taken at the first three. The programme motion had allowed for nine sittings. This paper summarises the second reading debate and gives an account of the Bill's committee stage.

An earlier House of Commons Library Research Paper – *Business Rate Supplements Bill*² – described the Bill, provided background information and discussed some of the issues surrounding it. The progress of the Bill and further relevant documentation is available on the Library's 'Bill Gateway' pages.³

¹ Lyons Inquiry into Local Government, *Place-shaping: a shared ambition for the future of local government*, March 2007, pp29-30, 295-305

² RP 08/93, <http://www.parliament.uk/commons/lib/research/rp2008/rp08-093.pdf>

³ <http://webapplications.parliament.uk/BillGateways/session/2008-09/bill/businessratesupplements.html>

II Second reading

The Bill received its second reading in the Commons on 12 January 2009. The Local Government Minister, **John Healey**, said that the Bill was part of the policy framework to prepare for the “other side” of the economic downturn. It would help local areas to recover more rapidly and take advantage of the upturn when it comes. He said that the Government was not imposing a new business tax but introducing a new power for local authorities – with “strong safeguards” for business – to raise money to help boost local economies in the longer term. London and Crossrail, he said, were the leading examples of the new power.

The Minister commented that the measure “continues the series of greater powers and freedoms” that the Government has given to local authorities in recent years. It applied the approach of business improvement districts to larger areas and to more substantial projects. He emphasised the safeguards for business, notably, (1) a maximum upper limit on the supplement, (2) a legal requirement to consult, (3) a ballot where the BRS finances a larger share of the cost, and (4) exemption for premises below a certain rateable value.⁴

Robert Neill, Conservative Local Government spokesman, moved a reasoned amendment, as follows:

...this House declines to give a Second Reading to the Business Rate Supplements Bill because supplementary rates threaten to become another local stealth tax at a time of economic downturn; because local firms should have a vote on any supplementary rate, as already occurs with Business Improvement Districts; because cuts to the Local Authority Business Growth Incentive Scheme will put pressure on councils to levy the supplementary rate; because the proposed exemption threshold for small business will be far less generous following the 2010 revaluation; because the Bill does not address the problems that local firms are suffering as a result of the Government's business rate rises on empty property and retrospective increases in rates levied on business in the registered ports; and because the Bill fails to limit the application of supplementary business rates to the Greater London Authority and the Crossrail project.⁵

Among the points made by Mr Neill were that:

- local authorities already have a range of powers to promote economic development and there is no need to provide additional tax-raising powers;
- if the Bill were to be limited to putting in place what is required to implement the funding agreement for Crossrail, it would be supported by the Conservatives;
- genuine buy-in from business requires a ballot in all cases and ongoing overview of a project. BRS risks damaging the positive relationships which have developed between local councils and businesses.⁶

⁴ The Minister's speech is at HC Deb 12 January 2009 cc 40-50

⁵ HC Deb 12 January 2009 c50

⁶ Robert Neill's speech is at HC Deb 12 January 2009 cc 50-57

Dan Rogerson, for the Liberal Democrats, criticised the Bill for being only a “slight reform” of business rates and not full re-localisation. He asked why concede the principle of local collection of rates without allowing local councils “to engage fully in that practice. But he said that it would be wrong to support the Conservative amendment and reject a Bill which was crucial to the funding of Crossrail. Among the other points made in his speech were that:

- his party favoured the use of a ballot for all BRS schemes;
- the “devalued concept of consultation” needs to be addressed. There must be extensive and genuine consultation of business prior to the introduction of any scheme;
- lessons could be learnt from local infrastructure funding methods in the United States and elsewhere.⁷

The Liberal Democrats joined with the Government in defeating the Conservative amendment by 327 votes to 259. The House then agreed second reading without a division. A programme motion made provision for, among other things, committee proceedings to be concluded on 3 February 2009. This was carried by 292 votes to 199. A money resolution was agreed to without division.⁸

III Committee stage

The Public Bill Committee met on seven occasions between 20 January and 3 February 2009. Oral **evidence** was taken at the first three sittings. Witnesses included representatives from the British Retail Consortium, British Chambers of Commerce, Confederation of British Industry, British BIDs, Royal Institution of Chartered Surveyors and the Local Government Association as well as Ministers from the Department for Communities and Local Government. Written evidence was also received from a number of organisations. Where appropriate, evidence is referred to in the appropriate sections below.

The Government published **draft guidance** to local authorities on business rate supplements while the Bill was in Committee.⁹ This helped to inform committee proceedings and covered the following main areas:

- types of projects that might be funded through a BRS;
- additionality of revenues;
- assessing when a ballot needs to be held;
- establishment of a National Project Panel to provide expert advice.

A **Delegated Powers Memorandum**, giving information about the delegated powers within the Bill, was produced by the Department for Communities and Local Government.

⁷ Dan Rogerson’s speech is at HC Deb 12 January 2009 cc61-66

⁸ *House of Commons votes and proceedings* 12 January 2009, <http://www.publications.parliament.uk/pa/cm200809/cmvote/90112v01.htm>

⁹ HM Treasury/ DCLG, *Business rate supplements: a consultation on draft guidance to local authorities*, January 2009, http://www.hm-treasury.gov.uk/consult_businessrate_supp.htm

A copy is available in the Library of the House.¹⁰ The Minister referred to a **Statement of Intent** concerning the Government's approach to the exercise of its delegated powers.¹¹ It is intended that there will be consultation on secondary legislation concerning ballots and administration of BRS (collection/ enforcement and accounting).

The Bill was not amended in committee. Significant areas of debate in committee are set out below.

A. Mandatory ballots for all BRS schemes

Dan Rogerson, Liberal Democrat spokesperson, introduced an amendment to clause 1 which sought to involve the business community formally in the decision on whether to levy a BRS. This, and amendments grouped with it, formed the basis of a lengthy discussion on business involvement and whether there should be ballot for all BRS schemes. [The Bill provides for a compulsory ballot of ratepayers only where the supplement accounts for more than one third of the total cost of a project.]

Mr Rogerson said that Liberal Democrat amendments provided for a mandatory ballot in all BRS schemes, regardless of the proportion of the cost funded by the supplement, but excluding Crossrail. He cited oral evidence from business representatives in favour of comprehensive balloting. He said that it was vital to “take the business community forward with us” and added:

...there still seems to be a concern in the business community that, without the ability to call for a ballot to focus everybody's minds and ensure that the process is as constructive and inclusive as possible, the consultation might not prove as effective.¹²

Robert Neill for the Conservatives said that he had sympathy with the amendment. His party's concerns about the rate supplements policy included:

- the potential imposition of large levies without a ballot in the present economic climate;
- the danger that some local authorities might be less “proactive and assiduous” in consulting with their business communities.¹³

He said:

...if the Government are genuine about giving local authorities a power to raise revenue that is truly and demonstrably additional, it is important that the local businesses who pay—who may pay substantial sums—are able to have a say on whether they are convinced that there is genuine additionality.¹⁴

¹⁰ DCLG, *Business Rate Supplements Bill: Delegated powers memorandum*, January 2009, Dep 2009/0284

¹¹ PBC Deb 3 February 2009, c223

¹² PBC Deb 27 January 2009 (morning), c106

¹³ *Ibid* cc107-108

¹⁴ *Ibid* cc108-0

The Minister, John Healey, said that there was widespread agreement that local authorities have an important role to play in economic development, and they need powers and freedoms to be able to play that role effectively. He cited the view of the Local Government Association that it should be for the local authority to decide whether there should be a ballot. While business improvement districts [where there is always a ballot] were locally focused, BRS schemes would be appropriate for wider areas and offer wider benefits. For him the principal question was:

Where other sources of funding are part of the package for a big project bringing wider benefits, and where there is a will to see investment from other sources so that such projects bring those wider benefits—just like Crossrail—those who argue for a ballot in all cases have to explain whether it is right that businesses should, in all those cases, have a vote and a veto on whether the project goes ahead?¹⁵

The amendment was supported by the Conservatives but rejected in a division by 8 votes to 6. Later, the Committee divided on a Conservative amendment to clause 4 which sought to provide for mandatory ballots in all cases. Despite Liberal Democrat support, the amendment was rejected by 8 votes to 5.¹⁶

B. Exemption of Crossrail from ballots

The revenues generated by a rate supplement levied by the Mayor of London would account for less than one third of the expected total cost of Crossrail. In these circumstances a ballot of ratepayers is not required. Among the grouped set of amendments referred to in the previous section were Conservative and Liberal Democrat amendments seeking a) to make a ballot compulsory in all cases, but b) to exempt the Crossrail supplement.

Dan Rogerson, for the Liberal Democrats, explained that Crossrail had been the subject of separate legislation which had been much debated. He said:

Given its scale, scope and national importance, and the clear expressions of will and involvement by all parties throughout, it should be treated separately. That is why our amendments would provide for a ballot in all cases other than Crossrail...¹⁷

Robert Neill, Conservative spokesman, agreed:

...Crossrail is and should be an exception, for the perfectly good reason that Crossrail is a project that has been discussed and consulted on within London among business rate payers and voters. London has had an election—a democratic process—in which all the major party candidates standing for Mayor were committed to Crossrail and the funding package for the project. Londoners had a chance to have a say on Crossrail.¹⁸

¹⁵ *Ibid* c122

¹⁶ *Ibid* c136

¹⁷ *Ibid* cc105-6

¹⁸ *Ibid* c109

The Minister, John Healey, replied that he could not accept that there should be “one rule for London and one rule for the rest of the country”.¹⁹ He agreed that Crossrail was a special project because of its scale, and that it was well advanced, but he said it was not unique. Similar transport projects in other areas could play a big part in economic development.²⁰

In considering clause 2, which defines levying authorities, the Committee divided on a Conservative amendment that would have made a rate supplement an option for London only. This did not have Liberal Democrat support since, as Mr Rogerson explained later:

My party believes that the provisions should be available in other parts of the country, as long as there is a clear coming together of the business community, local government and all the other funders to deliver.²¹

The Conservative amendment was rejected by 8 votes to 4.²²

C. Rateable value threshold

Dan Rogerson, Liberal Democrat spokesman, introduced an amendment to clause 12 that would have put the proposed threshold for exemption from BRS (RV of £50,000) on the face of the Bill rather than in regulations. Future amendments to the figure would be made through secondary legislation. The principle, he said, was not that £50,000 was necessarily the right amount but that as much information as possible, including the Government’s intentions in this respect, should be published in the Bill.

A number of Conservative Members expressed concern that the figure might not be high enough. Brian Binley said:

I am concerned about that level, not least in relation to when the Bill takes effect, which is not until April 2010, as I understand it. That coincides rather nicely with a rate revaluation that is due to take effect that year. The concern must therefore be that many more businesses than we might think of at the moment will be caught in the BRS net because of that revaluation. Whereas £50,000 may seem a sizeable figure at the moment, it may be that after revaluation it will not seem so at all.²³

Nick Raynsford (Labour) pointed out that the Mayor of London required the revenues predicated on the £50,000 threshold and that any reduction in the numbers paying the supplement could harm the funding for Crossrail. The Minister, John Healey, said that the threshold afforded protection for roughly 90% of businesses while still allowing for a revenue stream that would make the introduction of a BRS worthwhile.²⁴ Additional points made by him included the following:

¹⁹ *Ibid* c120

²⁰ *Ibid* c122

²¹ *Ibid* c132

²² *Ibid* c129-130

²³ PBC Deb 27 January 2009 (afternoon), c169

²⁴ *Ibid* c174

- setting the threshold in regulation provides the flexibility to update it, if needs be, in the light of future rateable value fluctuations;
- clauses yet to be discussed gave levying authorities discretion to introduce additional reliefs such as a higher threshold, a taper or phasing in the introduction of a supplement;
- the Bill allows Welsh ministers to set an appropriate threshold for Wales.²⁵

The amendment was withdrawn.

D. BID offsets²⁶

The Committee debated at length possible dangers to the business improvement districts (BIDs) programme posed by the introduction of business rate supplements.

1. Automatic offsets

Robert Neill, Conservative spokesman, said that a business facing severe cost pressures and the imposition of a BRS levy, might vote against a BID simply because it was the “one area where it can say no.” He introduced an amendment to clause 16 that would have allowed for automatic offsetting of a BID levy against a rate supplement.²⁷

2. Partial offsets

Dr Julie Grail, Chief Executive of British BIDs, had said in evidence to the Committee that they were seeking to persuade the Mayor of London to consider a partial offset in London (0.25% of the BID levy). She thought that this would provide reasonable value to individual business ratepayers while at the same time reducing the incentive to establish a BID simply to avoid paying a rate supplement.²⁸

Ministerial response: John Healey had emphasised in his evidence to the Committee that BIDs and rate supplements generated separate benefits to the ratepayers involved. Taking London as an example, he asked:

What is the basis for exempting a business in the Angel, Islington, or in the town centre of Kingston?” Both of those areas have small, localised BIDs areas designed to improve, say, the street signs, the trees or the police community support officers who patrol that area. What is the principled case for such businesses, which contribute to the local, immediate and practical upgrades of

²⁵ PBC Deb 27 January 2009 (afternoon), cc173-177; see also cc179-180 on BRS relief.

²⁶ 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 rate. Many BIDs cover town centres and business or industrial parks.

²⁷ PBC Deb 27 January 2009 (afternoon), cc182-3

²⁸ PBC Deb 20 January 2009 (afternoon), c47; referred to by Nick Raynsford at PBC Deb 27 2009 (afternoon), c184. In written evidence (BRS 04) the Mayor set out his reasons for not exempting BIDs in London from paying BRS. One of these was that it created an incentive to establish a BID for the sole purpose of avoiding a BRS.

their areas, to be exempted somehow from making the same contribution towards Crossrail as other companies, despite the fact that they, like businesses generally in London, stand to gain from it in the long term? The benefits of Crossrail are entirely different from those arising from their BIDs contributions.²⁹

In speaking to the Conservative amendment, he reiterated the differences between BIDs (short-term, revenue spending on immediate improvements) and BRS (longer-term, larger scale capital projects). He said that, in many cases, those businesses paying for a BID would be different from those paying a BRS. There might be some overlap between projects but that was precisely why levying authorities were being given the power to decide whether there should be an offset.³⁰

The Committee divided on the Conservative amendment which was rejected by 9 votes to 4.³¹

3. Differential treatment of BIDs

A Liberal Democrat amendment to clause 16 sought to allow a local authority that was intending to establish a BRS to take a different approach to individual BIDs (for example allowing an offset in just one area if justified by local circumstances). The Minister responded that drawing up different rules for different BID areas could contravene state aids legislation and competition rules, and favour certain types of undertaking in certain areas.³² The amendment was not pressed to a vote.

4. Property owners' BID levy

Nick Raynsford, a former local government minister who oversaw the introduction of BIDs, tabled a new clause which was discussed alongside the amendments on BID offsets. He considered it a longstanding weakness of the BID system that the occupier and not the landowner paid the levy, even though the latter might derive considerable benefit. The new clause provided that, in any BID area where a rate supplement was to be introduced, a BID levy on property owners might be introduced (subject to a ballot of owners). The revenue generated would be used to reduce the tenants' BID levies, thus providing an offset against the BRS.³³

The Minister, John Healey, responded that the principal objections to this policy (as in 2003) were that: a) BIDs were built on the rating system and a levy on property owners, rather than occupiers, would amount to a new tax; and b) there was evidence to suggest that landowners bear most of the actual cost of business rate rises in the medium-term. He also outlined some practical difficulties but said that he would consider the scope for bringing property owners more fully into the BID system.³⁴ The new clause was not pressed to a vote.

²⁹ PBC Deb 22 January 2009 (morning), c93

³⁰ PBC Deb 29 January 2009, cc191-4

³¹ *Ibid* c198

³² This matter discussed at PBC Deb 29 January 2009, cc191-4

³³ PBC Deb 27 January 2009 (afternoon), cc185-6, PBC Deb 29 January 2009, cc190-1; also discussed in evidence sessions e.g. PBC Deb 20 January 2009 (afternoon), cc49-51

³⁴ PBC Deb 29 January 2009, cc195-7

E. Other issues

Other issues discussed at some length in committee included the following:-

1. Uses to which BRS revenues may be put

A Conservative amendment to clause 3 sought to specify what BRS revenue may be spent on rather than what it may not be spent on.³⁵ Robert Neill said that the amendment was designed to reassure business that a BRS could not stray beyond a definition enshrined in the Bill. The amendment would have permitted expenditure which:

...promotes the economic well-being of its area, including the provision of transport infrastructure and the promotion of employment and employment skills, investment, regeneration, business efficiency and competitiveness.

The Minister, John Healey, replied that existing limitations were “clear and appropriate” and that the amended definition would “unnecessarily limit the potential use of BRS”.³⁶ He referred to the draft guidance to local authorities which had been published while the Bill was in Committee.³⁷ He encouraged Members with detailed views on how that guidance should be framed to submit their views to the consultation. The amendment was withdrawn.³⁸

2. Business involvement in delivery of a BRS

Robert Neill, for the Conservatives, introduced an amendment to schedule 1 which sought to ensure that a BRS prospectus contained a description of the arrangements by which BRS contributors were either to be represented on the governing body of a project, or otherwise involved in overseeing the delivery of its objectives. He said:

We seek a mechanism whereby business would be represented on and involved in that governing body, or controlling mind, in relation to delivery as well as planning. It seems logical to achieve the sort of partnership and collaboration that I accept Ministers want.³⁹

The Minister, Sadiq Khan, said that the implication of the amendment would have been that levying authorities should establish a BRS governing board. He said that, given the differences between areas and the range of possible BRS projects, it was vital that local authorities should have the flexibility to decide their own governance arrangements for projects. Mr Neill said that the amendment had actually posited two situations: either the establishment of a delivery body of some kind or, if not that, a simple requirement to state in the prospectus how business was to be involved in the delivery of the project.

³⁵ Written evidence from the British Retail Consortium (BRS 03, para 8) had expressed concern that eligibility criteria were “defined by exclusion”.

³⁶ PBC Deb 27 January 2009 (morning), cc133-4

³⁷ HM Treasury/ DCLG, *Business rates supplements: a consultation on draft guidance to local authorities*, January 2009, http://www.hm-treasury.gov.uk/consult_businessrate_supp.htm

³⁸ PBC Deb 27 January 2009 (morning), c134

³⁹ *Ibid* c140

The Minister promised to consider the matter with officials. The amendment was withdrawn.⁴⁰

3. Varying a BRS

There was a lengthy discussion on the subject of variations to a rate supplement (clause 10). The Minister, John Healey, said that authorities must have flexibility to deal with changing circumstances. He explained that a limited variation would be allowed if provided for in the original prospectus and if it did not increase the number of people liable to pay the supplement. However a levying authority wishing to vary a BRS in a way that was not foreseen in the original prospectus would be required to publish a document on the variation, consult on it and, where necessary, conduct a ballot.

The Minister clarified various issues raised by other Members including the following:

- if a variation pushed the proportion of funding borne by a supplement to more than one third of the total, a ballot would be required;
- if a council had chosen to ballot ratepayers (even though not required to do so) on the introduction of a supplement, it would have to re-ballot over a significant variation to it.⁴¹

⁴⁰ This discussion at PBC Deb 27 January 2009 (morning), cc139-140; 27 January 2009 (afternoon), cc143-147

⁴¹ Discussion of clause 10 at PBC Deb 27 January 2009 (afternoon), cc156-163

Appendix 1 Members of the Public Bill Committee

Chairmen:

Mr Peter Atkinson and Mrs Janet Dean

Members:

Binley, Mr Brian (*Northampton, South*) (Con)

Burt, Lorely (*Solihull*) (LD)

Dunne, Mr Philip (*Ludlow*) (Con)

Farrelly, Paul (*Newcastle-under-Lyme*) (Lab)

Field, Mr Mark (*Cities of London and Westminster*) (Con)

Healey, John (*Minister for Local Government*)

Khan, Mr Sadiq (*Parliamentary Under-Secretary of State for Communities and Local Government*)

Love, Mr Andrew (*Edmonton*) (Lab/Co-op)

Neill, Robert (*Bromley and Chislehurst*) (Con)

Raynsford, Mr Nick (*Greenwich and Woolwich*) (Lab)

Rogerson, Dan (*North Cornwall*) (LD)

Scott, Mr Lee (*Ilford, North*) (Con)

Sharma, Mr Virendra (*Ealing, Southall*) (Lab)

Turner, Mr Neil (*Wigan*) (Lab)

Twigg, Derek (*Halton*) (Lab)

Watts, Mr Dave (*Lord Commissioner of Her Majesty's Treasury*)

Committee clerks:

Alan Sandall and Gosia McBride