





September 20, 2024

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

Colette R. Gresham, Esq.
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Alex Hirtle
Legislative Budget and Policy Analyst 

Policy Analysis and Fiscal Impact Statement
CB-072-2024 Regulation of Invasive Bamboo

CB-072-2024 (*proposed by:* Council Member Dernoga)

Assigned to the Committee of the Whole (COW)

AN ACT CONCERNING REGULATION OF INVASIVE BAMBOO for the purpose of regulating invasive bamboo, and generally relating to the regulation of invasive bamboo.

Fiscal Summary

Direct Impact:

Expenditures: Negligible to modest additional expenditures likely.

Revenues: Possible revenue increase.

Indirect Impact:

Favorable.

Legislative Summary:

CB-072-2024¹ was presented by Council on September 10, 2024, and referred to the Committee of the Whole.

The Bill regulates invasive bamboo, including prohibiting a person from selling, planting, or allowing invasive bamboo from growing on the property of the property owner without proper upkeep and appropriate containment measures including installing barriers and trenches. Violations of the legislation includes civil fines of \$500 for the first violation, and \$1,000 for each subsequent violation.

Current Law/Background:

The Maryland Department of Agriculture is charged with regulation and prohibition of invasive plants, and recently abolished the two-tier system for listing invasive plant species, and will be establishing a new list of prohibited invasive plants within the State. New protocols for assessing certain plants will also be established- these changes were due to State legislation that was passed in 2024.² Maryland Code (LG § 1-1316) also allows counties and municipalities to regulate invasive bamboo through their own ordinance.

Due to the nature of invasive bamboo, which is characterized by aggressive spreading through its quickly growing root system known as rhizome, this perennial evergreen which belongs to the grass family often spreads across property lines. A property owner that may appear to contain the sheath and limbs (shaft and branches that grows out of the ground) in appearance can actually be unaware of the roots encroaching onto a neighbor's property, or in the public right-of-way, inadvertently creating new and unwanted bamboo growth above ground. There have been concerns from County residents, notably in the northern part of our jurisdiction, regarding neighbors who have invasive bamboo and do not contain it properly.

Currently the County does not have regulations regarding the sale, planting, or upkeep and appropriate containment of invasive bamboo. There are regional jurisdictions, such as Fairfax County that require containment of "running" or invasive bamboo beyond property lines, including violations with fines starting at \$50 for a violation.³ The State of Connecticut passed a law in 2013 requiring certain plants (genus of bamboo) to be set back from property lines by 40 feet, and includes fines and a liability clause within the legislation.⁴ There are also regulations for invasive bamboo in the State of New York, as well as municipalities in Pennsylvania, New Jersey, and Massachusetts.

¹ [CB- 072 - 2024](#)

² <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0915>

³ https://library.municode.com/va/fairfax_county/codes/code_of_ordinances?nodeId=THCOCOFAVI1976_CH119V

⁴ <https://www.gps.law/blog/running-bamboo-a-potential-liability-for-connecticut-homeowners/>

Resource Personnel:

- Michelle Garcia, Chief of Staff, District 1
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Discussion/Policy Analysis:

There are certain plants considered bamboo that are native to North America, including river cane, switch cane, and hill cane. These species have importance, both ecologically and culturally (especially to the Native American community) within the southeast part of the United States.⁵ However, invasive bamboo of the family Poaceae, subfamily Bambusoideae, which include golden and black bamboos and is addressed by the legislation, is an exotic species originating from Asia.⁶ This type of bamboo has been a nuisance and source of neighbor and property contention within various communities of the County due to the plant's ability to grow so quickly, and spread its root system (rhizome) across property lines, thus allowing bamboo to grow beyond property where the bamboo originated and/or was intended.

Fortunately, this legislation will not affect selling or purchasing of ornamental plants such as "lucky bamboo", which is actually not in the bamboo family, and is not considered an invasive plant.

The text of the legislation indicates violators are subject to a fine of \$500, and \$1,000 for each subsequent violation, plus mitigation of "...any damage caused by invasive Bamboo..." that spread from their property to an adjoining property. Given the aggressive nature of invasive bamboo, and the cost of mitigating and/or eradicating it, through barriers, herbicide, trimming, digging up and smothering the plant, the Bill appears sufficient for homeowners to act in their best financial interest to contain invasive bamboo from its spreading to other properties.

In terms of enforcement, there is the question of what resources the Department of Permitting, Inspections, and Enforcement (DPIE) possess to carry out the legislation. DPIE has been challenged with staff vacancies as well as increased enforcement of property standards, due to other recent legislative initiatives. It can be assumed that invasive bamboo will be complaint-driven, but how and what will mitigation of invasive bamboo look like? Does the Agency have appropriate staff to respond to complaints? Eliminating unwanted bamboo can take years, through trenches, barriers, cutting, herbicides, and other means- at what point will the agency cite a violator: after ninety days? One year, or longer? There is also the issue of determining the cost of "...any running bamboo..." that grows beyond one's property boundaries. This may be difficult to quantify, given the labor-intensive nature of ridding one's property of invasive bamboo. It is hopeful that more challenging disputes of invasive bamboo will be handled in a neighborly manner, and not have to be coerced through administrative or legal action.

⁵ <https://www.indefenseofplants.com/blog/2017/6/26/north-americas-native-bamboos>

⁶ Telephone conversation with Maryland Extension Home & Garden Information Center staff, September 11, 2024.

Fiscal Impact:

- *Direct Impact*

Enactment of CB-072-2024 is likely to have at most a modest adverse fiscal impact. Given that the legislation addresses an issue that, in large part, will take place on private property, DPIE would be the agency that inspects and cites violators. The process is expected to be mainly complaint-driven, so the fiscal impact would, in large part, be staff hours and possible overtime pay. Depending on how many residents or property owners file written or electronic format complaints, the fiscal impact could be nominal to modest. Staff hours would include initial inspections, spot checks, and filing of citations to violators. A positive fiscal impact could possibly occur through enforcement that creates revenue through fines, although DPIE has noted several times in the past that their preference is to work with property owners to resolve the issue, not fine them. At the time of completing this report, the Agency had not responded to specifics on the fiscal impact of this legislation.

- *Indirect Impact*

Enactment of CB-072-2024 could have a favorable indirect impact on the County by the reduction of an invasive species within our jurisdiction. Regulation of this invasive species can reduce its growth and presence, reducing the threat to native plants and biodiversity, which can minimize eco-system degradation, and improve the quality of life for neighborhoods and communities, especially if the bamboo is replaced by much-needed flora like pollinator plants, switchgrass and/or natural barriers, and more aesthetic plants, possibly raising property values within the County.

- *Appropriated in the Current Fiscal Year Budget*

No.

Effective Date of Proposed Legislation:

The proposed Bill shall be effective forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.