Department of Planning and Budget
2014 Fiscal Impact Statement

1. **Bill Number:** SB79

   House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Ruff, Jr.

3. **Committee:** Finance

4. **Title:** Optional retirement plans maintained by certain institutions of higher education

5. **Summary:** The proposed legislation allows the governing board of an institution of higher education that offers an Optional Retirement Plan (ORP) to establish a policy regarding the number of years of creditable service that an employee must have before being eligible for an unreduced refund of his accumulated employer contributions if he ceases to be an employee other than by death or retirement. The policy would only apply to employees hired on or after July 1, 2014.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** Preliminary. See Line 8.

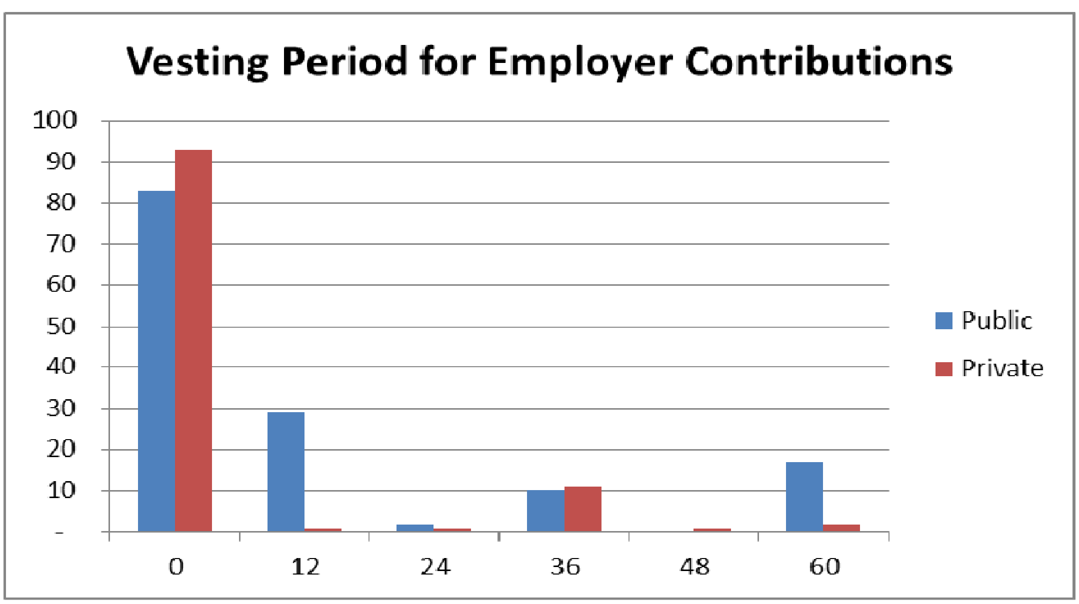
8. **Fiscal Implications:** The proposed legislation is permissive and will not require any institution to implement a vesting schedule. As such, there is no certain fiscal impact that will be realized if this legislation is enacted. A potential cost savings will be realized only if a vesting requirement is enacted, and the amount of savings will depend upon the type and terms of the vesting requirement and the number of faculty members who leave prior to vesting in the employer contributions. In addition, the savings will also depend on any charges that any third party provider might request for performing the record keeping associated with a vesting schedule.

   This legislation only applies to the four opt-out higher education institutions (listed in section 9 below). Section 51.1-126, Code of Virginia, authorizes the four opt-out institutions to maintain separate ORPs for their respective faculty. Faculty at the other institutions have the option to participate in a single VRS-administered ORP for higher education institutions. Senate Bill 79 proposes to allow the four opt-out institutions to each set its own vesting schedule, or to choose not to implement a vesting schedule. A participant in an ORP with a vesting schedule who terminated employment prior to vesting 100 percent in the employer contributions would forfeit those contributions. Forfeiture would not apply to faculty members who terminate employment due to death or involuntary separation due to causes other than job performance or misconduct. The vesting schedule would apply only to employer contributions. VRS does not have this authority for the VRS-administered ORP in which faculty from other public institutions has the option to participate. Such a discrepancy between the opt-out institutions and other institutions could potentially impact recruitment and retention efforts.

A change in the vesting schedule of an opt-out institution's plan would require a plan document amendment. Because ORPs are governmental plans that qualify for beneficial tax treatment under the Internal Revenue Code, they are required to maintain plan documents. The VRS maintains the plan document for the VRS-administered ORP. However, the opt-out institutions maintain the plan documents for their respective plans. In order to make a substantial change to a plan document, an opt-out institution must receive approval from the VRS Board of Trustees. If an opt-out institution wanted to exercise its option under Senate Bill 79 to impose a vesting requirement, such a change would require both a plan document amendment and VRS approval.

VRS recently conducted a survey of public and private peer institutions for Virginia's public institutions of higher education in 2013 pursuant to the requirements of § 51.1-126(F) (2), Code of Virginia. Of the institutions that required a vesting period, public institutions were more likely to require a vesting period than private institutions. Forty-one percent of public peer institutions required a vesting period, with 12 months being the most prevalent period. The number of institutions that required a vesting period in the 2013 survey increased by roughly 10 percent in comparison to the number of institutions that required a vesting period at the time the prior study was conducted in 2006.

Figure 1: Vesting Period for Employer Contributions (measured in months)
Data from 286 Public and Private Peer Higher Education Institutions
(Peer Institutions provided by the State Council of Higher Education for Virginia)



The substitute bill (Senate Bill 79 S1) has been amended to include a recommended technical amendment and to take into account some drafting differences between this bill and House Bill 700, which also authorizes the four opt-out universities to impose a vesting schedule for their ORPs. The legislation applies to faculty hired on or after July 1, 2014 and who are not employees described under subdivision B 3, which is an employee hired on or after July 1, 2003 by an institution for teaching, administrative, or research duties and who was in continuous service for the same duties at the time of hiring. This provision means that faculty members at the opt-out institutions who have already had the option to pick the VRS Defined Benefit Plan or an ORP at another Virginia public institution are not subject to a vesting period, if one is adopted by one of the four institutions and that faculty member is later employed at that institution. The bill (Senate Bill 79 S1) provides for a vesting schedule in full years of creditable service.

The substitute bill also provides that any future changes to a vesting policy implemented under the provisions of this bill will only apply to new employees hired on or after the date of the change. Several additional technical amendments are included in the substitute bills that do not affect the impact of the legislation.

9. Specific Agency or Political Subdivisions Affected:

Virginia Retirement System (VRS)
George Mason University
Virginia Tech
University of Virginia
Virginia Commonwealth University

10. Technical Amendment Necessary: No.

11. Other Comments: While House Bill 700 is similar to Senate Bill 79 (substitute), it allows the four opt-out universities to impose a vesting schedule for employees who are 1) hired on or after July 1, 2014, and 2) are not an employee described in Section 51.1-126(B) (3), Code of Virginia, which is an employee hired on or after July 1, 2003 by an institution for teaching, administrative, or research duties and who was in continuous service for the same duties at the time of hiring. The legislation also allows for a vesting schedule based on the number of months of creditable service, as opposed to full years.

Date: 1/22/2014