Department of Planning and Budget
2019 Fiscal Impact Statement

1. **Bill Number:** SB1227

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Chase

3. **Committee:** Finance

4. **Title:** Licensed local school board instructional or administrative employees; service retirement allowance.

5. **Summary:** Extends from July 1, 2020, to July 1, 2025, the sunset date for provisions (i) requiring school boards, division superintendents, if so requested, and the Superintendent of Public Instruction to annually identify and report critical shortages of teachers and administrative personnel and (ii) permitting any person receiving a service retirement allowance who is hired as a local school board instructional or administrative employee required to be licensed by the Board of Education to elect to continue to receive the retirement allowance during such employment under certain conditions.

6. **Budget Amendment Necessary**: No

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

8. **Fiscal Implications:** This bill continues the current teacher critical shortage program, but the Virginia Retirement System (VRS) has no way of predicting whether participation in the program will remain level or increase. Based on information reported by school divisions to VRS, the table below provides statistics on the number of full-time critical shortage teaching positions filled with a VRS retiree over the last decade.

DOE Region	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19*	Total CS Positions	% of total CS positions
Region 1	9	12	9	6	5	8	3	1		4	3	60	12.96%
Region 2	13	7	8	11	8	6	5	6	15	14	9	102	22.03%
Region 3	7	5	3	3	2	2	2	2	1	7	1	35	7.56%
Region 4	29	17	14	13	17	16	3	5	18	18	11	161	34.77%
Region 5	2	2	2	2	2	2	1	1	1	3	3	21	4.54%
Region 6	5	4	2	2	2	3	5	1	3	6	4	37	7.99%
Region 7	7	5	3	3	3					2		23	4.97%
Region 8	2	1	3	4	2	1	1	1	1	4	4	24	5.18%
	74	53	44	44	41	38	20	17	39	58	35	463	100.00%

* 2018-2019 data may be incomplete. Critical shortage information is not due to VRS until November 1st. This is the current number for the 2018-19 school year.

Region 1 - Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, New Kent, Powhatan, Prince George, Surry, Sussex, Colonial Heights, Hopewell, Petersburg, Richmond

Region 2 - Accomack, Isle of Wight, James City (Williamsburg), Northampton, Southampton, York, Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg (James City County)

Region 3 - Caroline, Essex, Gloucester, King George, King William, King and Queen, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, Colonial Beach, Fredericksburg, West Point

Region 4 - Arlington, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Shenandoah, Warren, Alexandria, Falls Church, Manassas, Manassas Park, Winchester

Region 5 - Albemarle, Amherst, Augusta, Bath, Bedford, Campbell, Fluvanna, Greene, Highland, Louisa, Nelson, Rockbridge, Rockingham, Buena Vista, Charlottesville, Harrisonburg, Lexington, Lynchburg, Staunton, Waynesboro

Region 6 - Alleghany, Botetourt, Craig, Floyd, Franklin, Henry, Montgomery, Patrick, Pittsylvania, Roanoke, Covington, Danville, Martinsville, Roanoke, Salem

Region 7 - Bland, Buchanan, Carroll, Dickenson, Giles, Grayson, Lee, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe, Bristol, Galax, Norton, Radford

Region 8 - Amelia, Appomattox, Brunswick, Buckingham, Charlotte, Cumberland, Greensville, Halifax, Lunenburg, Mecklenburg, Nottoway, Prince Edward

Return-to-work provisions have the potential to financially impact the VRS retirement plans due to the following factors:

- **Can incentivize members to retire earlier than originally expected.** Since members would be able to receive a retirement benefit and continue to receive compensation for working in a VRS covered position, provisions of the bill could change retirement patterns. To illustrate, if members retire earlier than anticipated, the plan pays benefits earlier than expected and for a longer period of time. In addition, the plan has less time in which to earn investment income on member and employer contributions which is necessary to fund benefits. Requiring longer breaks in service, such as a year or more, would help to avoid prearrangements of subsequent re-employment (precluded by the Internal Revenue Code - IRC) and mitigate altering retirement patterns of current members.
- **Can impact allocation of cost-sharing if replacing current covered positions with retirees**. Employers filling positions with retirees under the provisions of the bill could impact cost-sharing allocations if the payroll of these members is exempt from inclusion in valuation pay. As an example, payroll of a school division that hires retirees will be smaller than anticipated if these positions that were formerly filled by active employees will now be filled by retirees, for whom no employer contributions are being made. This impact can be avoided by requiring that the payroll of retired members is included in the plan’s covered payroll for VRS reporting. While the

member and employer would pay no normal cost since the member will not accrue additional benefit service, the covered payroll could still be used to amortize the legacy unfunded liability payment. This would protect against artificially increasing the amortization rate for other employers in the Teacher plan who may not fill VRS covered positions with retired members.

Based on the available statistics from the last 10 years, the program does not appear to be significantly impacting retirement patterns within the teacher pool. The fact that the Teacher pool is the largest VRS retirement pool with over 150,000 active members and the return to work provision is averaging approximately 42 people per year over the last 10 years (less than 0.03% of active population), current participation levels are not large enough to produce significant cost implications. However, if a large increase in retirees participating in the Teacher critical shortage program took place, it could impact the Teacher pool.

9. **Specific Agency or Political Subdivisions Affected:** VRS, DOE, and local school divisions identified as at at-risk by DOE.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** The teacher critical shortage program was first enacted in 2001 (HB 1589, Chapter 689 of the 2001 Acts of Assembly, and HB 252, Chapter 700 of the 2001 Acts of Assembly). Both bills included the following enactment clause:

> 2. That the Board and the Joint Legislative and Audit Review Commission shall jointly determine the period of time preceding employment, required pursuant to subdivision B 3 (b) of § 51.1-155, that will result in there being no negative fiscal impact to the Commonwealth pursuant to the provisions of this act. Such determination shall be made in consultation with the actuary of the Retirement System, the actuary of the Joint Legislative and Audit Review Commission, the Superintendent of Public Instruction, and the chairmen of the Senate Committee on Finance and the House Committee on Appropriations. The period of time determined shall be consistent with the federal tax qualification of the plan. The Board may adopt such jointly determined period of time for purposes of providing for a person to continue to receive his retirement allowance while employed as a local school board instructional or administrative employee required to be licensed by the Board of Education and pursuant to all other elections or conditions of this act. Only if such person has been retired for such jointly determined period of time shall such person be permitted to elect to continue to receive his retirement allowance while employed as a local school board instructional or administrative employee as provided under this act, unless the general appropriation act in effect at that time provides or authorizes a period of time such person shall be retired that is less than such jointly determined period of time.

This enactment clause demonstrates the significant consideration that was given to the length of the break in service required before retirees would be allowed to return to work under the program.

The original legislation had a sunset date of July 1, 2006. The legislation was extended in 2005, HB 1787, Chapter 605, 2005 Acts of Assembly, through July 1, 2007. The legislation was extended again, most recently in 2015 (HB 2020, 2015 Acts of Assembly Chapter 326), with an extension through July 1, 2020. This bill would extend the legislation again through July 1, 2025.

The teacher critical shortage legislation does not include a provision that would require employers to pay contributions for retirees who return to work under the program. However, the experience over the last decade (ranging from 17 to 74 teachers in the program and averaging 42 teachers per year in the program) indicates that the teacher critical shortage program has not had a significant effect on the overall funding of the Teacher plan. If usage patterns were to change, requiring employer contributions serves to mitigate potential impacts to the Teacher plan.