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.

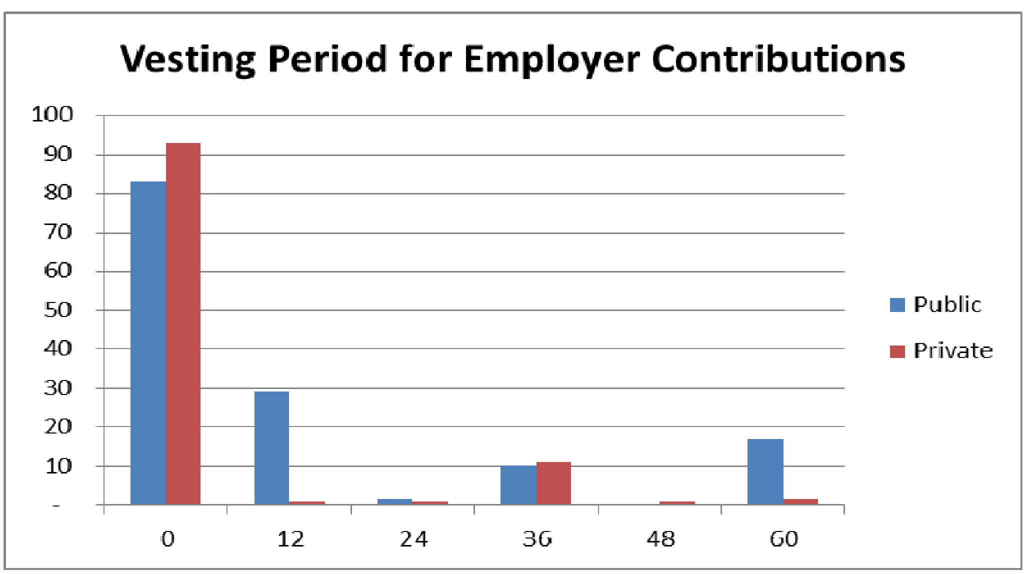
   The legislation only applies to the four opt-out higher education institutions (listed in section 9 below). Section 51.1-126 authorizes the four opt-out institutions to maintain separate Optional Retirement Plans (ORP) for their respective faculty. Faculty at all other institutions of higher education are eligible 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. Currently, VRS does not have this authority for the VRS-administered ORP in which all other public institutions' faculty have 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 SB 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). 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)



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: Yes.

Line 123, strike "member of" and insert "participant in"

The reason for the following technical amendment is that § 51.1-124.3 defines "member" as someone who participates in the Retirement System (meaning a VRS plan). Faculty and employees hired by an opt-out institution will not participate in a VRS plan unless they served in a VRS-covered position prior to electing the institution's optional retirement plan (ORP).

11. Other Comments: Senate Bill 79 is similar to House Bill 700 with minor drafting differences. Senate Bill 79 applies to faculty hired on or after July 1, 2014 and provides for a vesting schedule in full years of creditable service. House Bill 700, however, applies to employees who are 1) hired on or after July 1, 2014, and 2) are not an employee described in 51.1-126(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. House Bill 700 allows for a vesting schedule based on the number of months of creditable service, as opposed to full years.

Date: 1/13/2014