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HB 115: State Revenue Restructuring Act Version: 30-LS0125/E

Sectional Analysis- Long Version

Please note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself. The legislation is the best statement of its contents.

Section 1 (page 1, line 7) – Clarifies that all components of this bill are part of a comprehensive revenue act and the act may be known as the State Revenue Restructuring Act.

-----Appropriations from the Earnings Reserve Account-----

Section 2 (page 1, line 10) – Amends AS 37.13.140 by adding “and market value” to section title. This section directs the Permanent Fund Corporation to continue computing net income of the fund excluding any unrealized gains or losses but removes language the calculation for determining distributable income from the earnings reserve.

Section 3 (page 2, line 9) – Amends AS 37.13.140 by adding subsection (b). This subsection indicates that the corporation will determine the amount of earnings available for distribution each year and describes how that amount will be calculated. The amount available for distribution is 4.75% of the average market value (POMV) of the permanent fund for 5 of the last 6 fiscal years, excluding the fiscal year just ended. For example, a POMV draw on June 30th, 2017 (FY17) would include FY12, 13,14,15, and 16, but not FY17. The “average market value” includes the balance of the earnings reserve but does not include the quantity of the principal ascribed from Amerada Hess monies due to the existing prohibition against using Amerada Hess monies to fund the dividend.

Section 4 (page 2, line 19) – This section creates a structured draw on the earnings reserve of the permanent fund, which the legislature may direct to the dividend fund and the general fund. To do this the legislature will use the POMV calculation for determining the distributable amount from the earnings reserve as explained in Section 3. AS 37.13.145(b)(1) appropriates 33% of the POMV draw from the earnings reserve to the dividend fund. AS 37.13.145(b)(2) appropriates 67% of the POMV draw from the earnings reserve to the general fund.

Section 5 (page 2, line 27) –Clarifies AS 37.13.145(d) to state that Amerada Hess funds are to be treated as other income to the permanent fund, except they are not available for distribution for permanent fund dividends or the general fund under AS 37.13.145(b), but instead are to be deposited into the Alaska capital income fund. It is existing law that these funds are not available for distribution. This section removes references to AS 37.13.145 (c), related to inflation proofing, which is repealed by this act.

Section 6 (page 3, line 6) – Adds a new subsection (e) to AS 37.13.145. After appropriation by the legislature for PFD’s and to the general fund as described in Section 3 of this act, the legislature may appropriate from the earnings reserve to the permanent fund principal, an amount which exceeds four times the amount calculated for distribution under AS 37.13.140(b). This means that when the earnings reserve account is larger than four times the calculated annual POMV draw, that excess is placed into the fund’s principal to help protect the fund against inflation.

Section 7 (page 3, line 11) – Amends AS 37.13.150 to clarify that the unexpended balance of the permanent fund corporation’s annual operating budget, which comes the fund’s earnings, is treated as income and is included in the calculation of the permanent fund’s market value.

Section 8 (page 3, line 18) – The mental health trust fund is not included in the computation of net income or market value available for distribution for PFD’s or the general fund.

Section 9 (page 3, line 22) – The Alaska permanent fund corporation shall determine the mental health trust fund’s net income, computed each year of the last day of the fiscal year, using generally accepted accounting standards, excluding gains on losses. This is how the trust’s net income is currently calculated.

-----**Start of Income Tax section**-----

Section 10 (page 3, line 29) – AS 43.05.045(a) clarifies that there is a penalty if a state income form is not filed electronically. However, individual filers are exempt from this penalty as noted later in AS 43.22.020(f) – (see page 6, line 13).

Section 11 (page 4, line 8) – Creates the Individual Income Tax within AS 43.

Subsection: Sec. 43.22.010 (page 4, line 10) – Imposes an income tax and a long term capital gains tax on both residents and nonresidents. For residents it is based on all income and all long term capital gains earned both within and outside of Alaska. For nonresidents it is based on income and long term capital gains earned from a source within Alaska. The tax is equal to 15% of the taxpayer’s total federal income tax due (typically Line 56 on 1040 form) or \$25.00, whatever is greater. Long term capital gains are additionally taxed by multiplying the taxpayer’s long term capital gains for the calendar year (typically Line 13 on 1040 form) by the lesser of:

- 10%; or
- The difference between the taxpayer’s incremental federal income tax rate on ordinary income and the taxpayer’s federal tax rate on long term capital gains.

Currently the difference between the taxpayer’s incremental federal income tax rate on ordinary income and the taxpayer’s federal tax rate on long term capital gains is between 10 -19.6%. Should the federal government change the rates on either, this could increase or decrease this difference. Based on this section of the bill, an Alaskan taxpayer’s long term capital gains will be multiplied by no more than 10% and could be taxed at a lower rate if the federal difference is reduced.

Subsection (c) clarifies that an individual does not have to file a state income tax if they are not required to file a federal income tax.

This section also defines *federal income tax due* and *long term capital gains* as that reported on a taxpayer’s federal individual income tax return.

Subsection: Sec. 43.22.020 (page 5, line 14) - Establishes how taxpayers will submit tax returns and make payments for the individual income tax. It clarifies that this tax is due and payable to the department at the same time and in the same manner as the tax payable to the U.S. IRS for federal taxes. The section also outlines procedures in case there are changes to the taxpayer's federal income tax return. Any overpayments will be reimbursed by the department out of the general fund. As noted above, (f) exempts an individual from the penalty for not filing their income tax electronically. However, a person paid to file returns for 10 or more individuals is not exempt, and must file electronically.

Subsection: Sec. 43.22.030 (page 6, line 17) – Defines *income from sources in the state* as compensation for services rendered; salary or wages earned; income from real or tangible personal property located; income from stocks, bonds, notes, bank deposits, and other intangible personal property having a taxable or business site; rentals and royalties; patents, copyrights, trade brands, franchises, etc. Note – the IRS definition for income is adopted later in the bill by allowing the department to adopt necessary provisions of the Internal Revenue Code. See page 9.

The section also defines that income from a taxable or business site in the state includes: business facilities or property, business, farming, fishing, management or investment for intangible property, partnerships, limited liability companies, estate and trust businesses, corporations conducting business in the state, etc. It also clarifies that if a business, trade or profession is carried on both within and outside of Alaska, the income from the sources in Alaska shall be determined as provided in AS 43.19 “*Multistate Tax Compact.*”

Note: this bill does not tax income distributed from a trust. It does tax the income of a small business, LLC, or partnership that conducts trust business.

Subsection: Sec. 43.22.035 (page 7, line 12) – Provides a credit to residents for taxes paid to another state based on income earned in that other state (so someone is not taxed twice on the same income).

Subsection: Sec. 43.22.040 (page 7, line 27) – States a person may apply some or all of their PFD as a refundable tax payment to their upcoming state income tax due, less any garnishment, levy, donations to Pick Click Give or college funds, etc., as allowed under other sections of statute. For example, a person may apply some or all of their 2018 PFD to their 2018 taxes due. If a person's Refundable Tax payment of their dividend is more than the amount of their state income tax due, any remaining amount will be reimbursed to the person as a tax refund, after the person has filed their state income taxes. Note: the refundable tax payment only applies to residents because it is tied to the PFD.

Subsection: Sec. 43.22.050 (page 8, line 6) – Establishes how taxes will be withheld by employers making payment of wages, salaries, or crew shares. The employer shall deduct and withhold the amount of tax, remit the tax to the department, and provide a written statement to the employee by January 31 of the succeeding year showing the amount deducted and other necessary information. The Department of Revenue shall publish the rate of withholding required by this section on a person's W2. The terms “employee” and “employer” are defined.

Subsection: Sec. 43.22.055 (page 9, line 4) – Allows a person's income tax information to be shared with a banking institution to verify direct deposit of refunds.

Subsection: Sec. 43.22.060 (page 9, line 7) - Authorizes the department to create all necessary forms and adopt regulations to implement this tax, including regulations for online filing and online payment

and prepayment of taxes due, and forms for itemizing deductions. This section allows the department to adopt Internal Revenue Code definitions, such as the income definition, as necessary and useful.

Subsection: Sec. 43.22.190 (page 9, line 17) - Definitions of the following terms: domiciled, individual, Internal Revenue Code, nonresident, resident, and taxpayer. Resident is defined as an individual who: lives in the state for the entire calendar year; claims to be a resident of Alaska on their federal tax forms; receives an Alaska permanent fund dividend; is registered to vote in Alaska; or has an Alaska resident fishing, hunting, or trapping license during the calendar year.

----- **end of Income Tax section** -----

Section 12 (page 10, line 9) – AS 43.23 is amended by adding a new section which directs the Permanent Fund Division Department of Revenue to create a place on the PFD application where an applicant may apply some or all of their PFD to their upcoming state income tax due.

Section 13 (page 10, line 15) – Repeals:

AS 37.13.145(c): repeals inflation proofing of the permanent fund.

AS 43.05.085, AS 43.20.012(b), and AS 43.20.013: these remove a former tax credit for political contributions that existed under Alaska’s prior individual income tax which was repealed in 1980.

Section 14 (page 10, line 16) – Clarifies that the state income tax created under section 11 of this act only goes into effect starting on January 1, 2018, and will not be applied to any income earned prior to that date.

Section 15 (page 10, line 20) – Authorizes the Department of Revenue to adopt regulations to implement the act, but not before the effective date of the law implemented by the regulation.

Section 16 (page 10, line 25) –If sections 2 through 9 take effect after June 30th of 2017, sections 2 through 9 are retroactive to June 30th, 2017.

Section 17 (page 10, line 29) – Sections 1 through 9, relating to the earnings reserve account and the permanent fund, and sections 15 and 16 take effect immediately.

Section 18 (page 10, line 31) – The effective date of the act, except those noted in section 17 above, is January 1, 2018.