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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that there have been  
2 reports that the state public charter school commission has  
3 placed certain conditions on per-pupil funding allocations that  
4 are inconsistent with chapter 302D, Hawaii Revised Statutes, and  
5 the legislative intent of that chapter.

6           The purpose of this Act is to ensure compliance with the  
7 letter and spirit of chapter 302D by:

- 8           (1) Repealing the exemption for charter schools from  
9           requirements on the administration and use of the  
10           federal funds allocated to the State for public  
11           education purposes;
- 12           (2) Clarifying that the disbursement of these funds shall  
13           not be conditioned on the agreement of a public  
14           charter school to amend an existing charter contract;  
15           and
- 16           (3) Amending the manner in which federal funds are  
17           disbursed to public charter schools.



1 SECTION 2. Section 302D-25, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§302D-25 Applicability of state laws.** (a) Charter  
4 schools shall be exempt from chapters 91 and 92 and all other  
5 state laws in conflict with this chapter, except those  
6 regarding:

7 (1) Collective bargaining under chapter 89; provided that:

8 (A) The exclusive representatives as defined in  
9 chapter 89 and the governing board of the charter  
10 school may enter into supplemental agreements  
11 that contain cost and noncost items to facilitate  
12 decentralized decision-making;

13 (B) The agreements shall be funded from the current  
14 allocation or other sources of revenue received  
15 by the charter school; provided that collective  
16 bargaining increases for employees shall be  
17 allocated by the department of budget and finance  
18 to the charter school's authorizer for  
19 distribution to the charter school; and

20 (C) These supplemental agreements may differ from the  
21 master contracts negotiated with the department;



1           (2) Discriminatory practices under section 378-2; and  
2           (3) Health and safety requirements.

3           (b) Charter schools, the commission, and authorizers shall  
4 be exempt from chapter 103D, but shall develop internal policies  
5 and procedures for the procurement of goods, services, and  
6 construction, consistent with the goals of public accountability  
7 and public procurement practices. Charter schools, the  
8 commission, and authorizers are encouraged to use the provisions  
9 of chapter 103D where possible; provided that the use of one or  
10 more provisions of chapter 103D shall not constitute a waiver of  
11 the exemption from chapter 103D and shall not subject the  
12 charter school, commission, or authorizer to any other provision  
13 of chapter 103D. Charter schools, the commission, and  
14 authorizers shall account for funds expended for the procurement  
15 of goods and services, and this accounting shall be available to  
16 the public.

17           (c) Charter schools and their employees, the commission  
18 and its employees, and governing boards and their members shall  
19 be subject to chapter 84.

20           (d) Any charter school, prior to the beginning of the  
21 school year, may enter into an annual contract with any



1 department for centralized services to be provided by that  
2 department.

3 (e) Notwithstanding any law to the contrary, as public  
4 schools and entities of the State, a charter school, including  
5 its governing board, the commission, and any authorizer may not  
6 bring suit against any other entity or agency of the State.

7 ~~[(f) Charter schools, the commission, and authorizers~~  
8 ~~shall be exempt from section 302A-1401.~~

9 ~~(g)]~~ (f) For purposes of statutory delegation of authority  
10 to department heads by other state agencies, the executive  
11 director shall be deemed the department head of the commission  
12 and charter schools unless otherwise specifically provided."

13 SECTION 3. Section 302D-28, Hawaii Revised Statutes, is  
14 amended by amending subsections (d) through (f) to read as  
15 follows:

16 "(d) Charter schools shall be eligible for all federal  
17 financial support to the same extent as department schools. The  
18 department shall provide all authorizers with all state-level  
19 federal grant proposals submitted by the department that include  
20 charter schools as potential recipients and timely reports on  
21 state-level federal grants received for which charter schools



1 may apply or are entitled to receive. Authorizers shall timely  
2 provide this information to the charter schools, as applicable.  
3 Federal funds received by the department for charter schools  
4 shall be transferred [~~to authorizers for distribution~~] directly  
5 to the charter schools [~~they authorize~~] in accordance with the  
6 federal requirements. If administrative services related to  
7 federal grants are provided to the charter school by the  
8 department, the charter school shall reimburse the department  
9 for the actual costs of the administrative services in an amount  
10 that shall not exceed six per cent of the charter school's  
11 federal grants.

12 Any charter school shall be eligible to receive any  
13 supplemental federal grant or award for which any department  
14 school may submit a proposal, or any supplemental federal grants  
15 limited to charter schools; provided that if department  
16 administrative services, including funds management, budgetary,  
17 fiscal accounting, or other related services, are provided with  
18 respect to these supplemental grants, the charter school shall  
19 reimburse the department for the actual costs of the  
20 administrative services in an amount that shall not exceed six



1 per cent of the supplemental grant for which the services are  
2 used.

3 All additional funds generated by the governing boards,  
4 that are not from a supplemental grant, shall be held separate  
5 from allotted funds and may be expended at the discretion of the  
6 governing boards.

7 (e) ~~Authorizers~~ The department of budget and finance  
8 shall calculate a general fund per-pupil amount based upon the  
9 amount of general funds appropriated by the legislature and  
10 released by the governor and the projected enrollment amount  
11 used to calculate the general funds appropriated pursuant to  
12 subsection (a) [-] and disburse the funding directly to charter  
13 schools. Per-pupil funding disbursement shall not be withheld  
14 or conditioned on the agreement of a charter school to amend an  
15 existing charter contract, including without limitation  
16 amendments that may compromise student eligibility for the Free  
17 Appropriate Public Education Program under federal law.

18 Authorizers shall submit a report to the legislature no  
19 later than twenty days prior to the convening of each regular  
20 session that contains each charter school's current school year  
21 projection that is used to submit the budget request, the



1 updated May 15 enrollment projection, the actual October 15  
2 enrollment count, the authorizer's reviewed and verified  
3 enrollment count, and the November 15 enrollment count.

4 (f) To enable charter schools to access state funding  
5 prior to the start of each school year, foster their fiscal  
6 planning, enhance their accountability, and avoid over-  
7 allocating general funds to charter schools based on self-  
8 reported enrollment projections, [~~authorizers~~] the department of  
9 budget and finance shall:

10 (1) Provide sixty per cent of a charter school's per-pupil  
11 allocation based on the charter school's projected  
12 student enrollment no later than July 20 of each  
13 fiscal year; provided that the charter school shall  
14 have submitted to its authorizer a projected student  
15 enrollment no later than May 15 of each year;

16 (2) Provide an additional thirty per cent of a charter  
17 school's per-pupil allocation no later than December 1  
18 of each year, based on the October 15 student  
19 enrollment, as reviewed and verified by the  
20 authorizer; provided that the school is in compliance  
21 with all financial reporting requirements; and



1           (3) Retain no more than the balance of the remaining ten  
2           per cent of a charter school's per-pupil allocation,  
3           as a contingency balance to ensure fiscal  
4           accountability and compliance, no later than June 30  
5           of each year;  
6   provided that [~~authorizers~~] the department of budget and  
7   finance, in consultation with the board, may make adjustments in  
8   allocations based on noncompliance with charter contracts and  
9   the board may make adjustments in allocations based on  
10   noncompliance with board policies made in the board's capacity  
11   as the state education agency, department directives made in the  
12   department's capacity as the state education agency, the board's  
13   administrative procedures, and board-approved accountability  
14   requirements."

15           SECTION 4. Statutory material to be repealed is bracketed  
16   and stricken. New statutory material is underscored.

17           SECTION 5. This Act shall take effect on July 1, 2022.

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INTRODUCED BY: 

JAN 21 2022





# H.B. NO. 1865

**Report Title:**

Charter Schools; State Public Charter School Commission; Federal Funding

**Description:**

Removes federal funds disbursement authority from State Public Charter School Commission. Authorizes the Department of Budget and Finance to disburse federal funds directly to public charter schools. Repeals the exemption for charter schools from requirements on the administration and use of the federal funds allocated to the State for public education purposes.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

