

# A POLITICAL MELODRAMA

## THE RACE FOR WISCONSIN ATTORNEY GENERAL

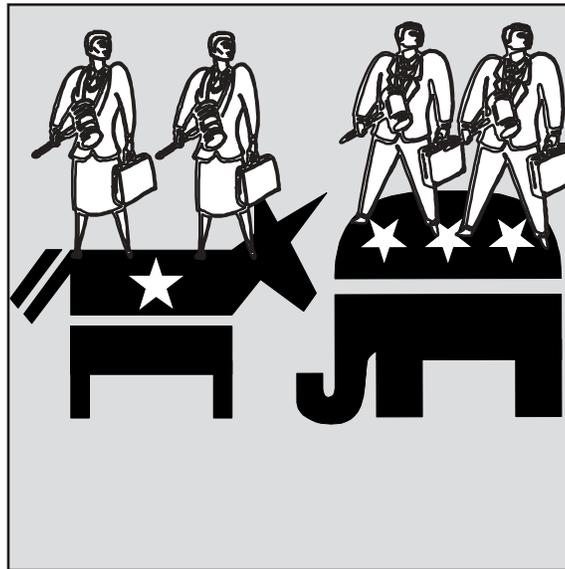
JEFF MAYERS

In a year when the governor's race and the race for the open congressional seat in northeastern Wisconsin are capturing national attention, you wouldn't think the political class would care about a little ol' attorney general's race.

But they do.

A simple mathematical formula explains. One very vulnerable incumbent equals three challengers—all declared and running full-fledged campaigns even before winter weather enveloped Wisconsin.

Making it more interesting is the thinking that the attorney general's race could affect the outcome of the governor's race. Giving it political heft is the Republicans' concerted quest to capture the attorney general's (AG) office for the first time since Green Bay's Don Hanaway captured it for only one term in 1986. And making it absolutely compelling is the fact that the current incumbent governor seeking reelection, Jim Doyle, is a former son-of-a-federal-judge attorney general who has an apparent favorite in the Democratic primary. Doyle, by the way, is the guy who beat Hanaway in 1990 to establish the Democrats' latest domination of the office.



The race for the Wisconsin's top cop rarely has more subplots than a TV crime show. But the 2006 version qualifies as a genuine melodrama and exhibits more intrigue than the turmoil three decades ago when Robert Warren resigned the job in 1974 to take a federal judge appointment.

Let's introduce the players in the current political drama.

### Democrats

**The Calculating Governor:** First-term Democratic incumbent Jim Doyle has clashed with the current AG, Peg Lautenschlager, and so activists speculated early on that Doyle would seek a primary challenger to her or try to force her out of the race. While they perceive him to have a poor record when getting involved in primaries, strategists said there was good reason for the governor to encourage a different Democratic attorney general candidate.

A losing attorney general candidate could hurt him in the general election but a strong candidate—especially a strong liberal female candidate from the right area—could maxi-

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*Jeff Mayers is the president of WisPolitics.com, WisOpinion.com and WisBusiness.com, Web-based news services in Madison.*

mize the Democratic votes he needs in the Democrat-rich counties of Milwaukee and Dane to win, strategists said.

**The Vulnerable Incumbent:** First-term Democratic incumbent Peg Lautenschlager, a former U.S. attorney in Madison under Bill Clinton, ran for the office four years ago. She became the Democratic nominee by default when Brian Burke, the front-runner and state senator from Milwaukee, became the first big-time politician charged in what has become known as the “caucus scandal.” Burke late last year was sentenced to a jail term and fined after a plea deal with prosecutors.

In November 2002, Lautenschlager beat by a whisker then-Outagamie County District Attorney Vince Biskupic (brother of Milwaukee U.S. Attorney Steven) after Biskupic ended the campaign with getting bad editorials because he wouldn’t release records concerning what later became a full-blown controversy—making secret deals under which people would avoid criminal charges by paying into a “crime prevention fund.”

Lautenschlager went on to clash with Doyle over his raiding her Department of Justice (DOJ) staff and his dalliance with Republicans on the so-called Jobs Creation Act, which became law over her objections.

Then came that night in February 2004, when the state’s top cop drove drunk. Video was captured and played on the nightly news. A tearful press conference followed. Then troubles with her use of a state car. A State Ethics Board fine capped months of bad publicity. Doyle appeared to offer scolds, not support. And finally, breast cancer, successful treatment, and a heightened reputation as a “fighter” for environmental protection and liberal causes, embracing the “activist AG” label. She also was seen bolstering her standing in the north and west with her successful personal prosecution of a nationally-covered case, the Chai Vang deer-hunter-murder trial. She prepared for re-election determined to show Doyle and her detractors that she could win.

**The Cool Challenger:** Kathleen Falk is the Dane County executive. She used to be one of the state Department of Justice’s public intervenors, positions so hated by conservatives that Governor Tommy Thompson and Republicans eliminated them in the mid-1990s. But oddly, Thompson, many in his clan, and some Republicans got to like Falk because she reached truces with the development crowd on contentious issues like the expansion of Highway 12 between Madison and the Wisconsin Dells.

She ran for governor in 2002, but lost in the primary to Doyle. Her third-place finish—behind Doyle and then-Congressman Tom Barrett—didn’t seem to tarnish her much.

She gained such bipartisan stature that in April 2005 she won re-election to another four-year term without opposition and joined Doyle on some of his initiatives, helping the camps of the one-time rivals to get along.

Politico pros also noted that Falk kept fundraising throughout her non-competitive race for re-election.

Obviously something was up. County officials don’t raise money for the heck of it. The speculation continued, Falk calculated her strategy, and a group of Assembly Democrats, usually the most loyal to Doyle, finally encouraged her to run in a public way. That spurred loud and public opposition from top state employee union chiefs. In an extraordinary and scathing letter AFSCME Council 24 officials Marty Beil and Bob McLinn blasted Assembly Minority Leader Jim Kreuser for signing on to the Falk petition. Their letter read:

Is your own house in such good order that you can spend precious energy throwing rocks at your neighbor’s, which is home to a leader who has a clear vision of what it means to fight—against all odds—for what is right? Are you embarrassed by her courage in overcoming cancer while showing more energy for the fight than your entire toothless caucus combined?

Nonetheless, Falk on November 7, 2005, declared that she would challenge Lautenschlager—evoking strains of sympathy and anger from the liberal Democratic fold.

That wasn't the only flack she encountered. At her Madison announcement, she was asked by a reporter whether she ever has driven drunk, Falk seemed momentarily caught off guard. "I don't know," she answered quietly.

"You don't know?" asked a reporter.

"You don't know if you've ever driven drunk?" asked another.

Falk then answered evenly, "I've never been impaired while driving."

It was a bumpy take-off, but those on board the Falk Express declared she would prevail through better organization and fundraising and the backing of the Democratic establishment. But early reviews by political insiders in late fall were uneven because of Lautenschlager's early domination of union endorsements and Falk's slowness to quickly expand her campaign structure.

It was a huge political gamble. If Falk wins, she sets herself up to run for governor in 2010. If she loses, politicians say her career likely will be kaput.

One key indicator wasn't available by press time: the 2005 campaign fundraising reports.

### Republicans

**The Nice-Guy Prosecutor:** J.B. Van Hollen has held two county district attorney positions in Ashland and Bayfield counties before becoming the U.S. attorney in Madison—Lautenschlager's old job.

Van Hollen, son of a former lawmaker, won the unscientific WisPolitics.com straw poll at the state GOP convention in 2005 by a wide margin and showed surprising strength for a candidate with no real base, according to scientific WisPolitics.com polling done in October.

**The Intense Prosecutor:** Paul Bucher is the marathon-running 20-year vet of the Waukesha County district attorney's office.

Bucher has toyed with the race before, only to pull back to the safe job.

But now he's running full bore as the tough-on-crime candidate who has one of the richest Republican bases in the state.

These two candidates met in early December in a WisPolitics.com debate in Madison. They discussed issues ranging from concealed carry of weapons to the meth drug problem. They rarely differed on the rhetoric, but their styles and backgrounds provided a lot of contrast.

- Both said they were confident that the concealed carry bill would pass constitutional muster.

Van Hollen said:

The issue that needs to be addressed, more importantly, is how involved government should be in our lives when there hasn't been a necessity shown for that. That's why the concealed carry bill is so important. This bill will take the government out of our lives in an area where 46 other states have shown it's not necessary for the government to be involved.

Bucher agreed, adding,

More importantly, it's about time law-abiding citizens of this state should no

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**POLLING RESULTS — OCTOBER 2005**

**WisPolitics Poll**

	Lautenschlager	Van Hollen	Undecided	Falk	Van Hollen	Undecided	Lautenschlager	Bucher	Undecided	Falk	Bucher	Undecided
Republican	9	61	39	9	49	42	7	65	28	4	63	33
Independent	27	29	44	33	13	54	28	29	43	32	17	51
Democrat	63	8	29	56	8	36	69	7	24	57	8	35
<b>Total</b>	<b>33</b>	<b>33</b>	<b>34</b>	<b>35</b>	<b>21</b>	<b>44</b>	<b>35</b>	<b>32</b>	<b>33</b>	<b>33</b>	<b>27</b>	<b>40</b>

**Garin-Hart-Yang Poll**

	Lautenschlager	Van Hollen	Undecided	Falk	Van Hollen	Undecided	Lautenschlager	Bucher	Undecided	Falk	Bucher	Undecided
Republican	na	na	na	na	na	na	na	na	na	na	na	na
Independent	37	20	43	31	14	55	39	25	36	33	16	51
Democrat	81	2	17	69	2	29	83	5	12	70	2	28
<b>Total</b>	<b>44</b>	<b>28</b>	<b>28</b>	<b>37</b>	<b>24</b>	<b>39</b>	<b>45</b>	<b>32</b>	<b>23</b>	<b>37</b>	<b>27</b>	<b>36</b>

WisPolitics.com Poll: Surveyed 600 Wisconsin residents by telephone between Oct. 2 and 4.

Garin-Hart-Yang Poll Numbers from Lautenschlager campaign: The poll of 504 likely Wisconsin voters was conducted from October 14 to 17, 2005.

longer be afraid of the bad guys, the bad guys should be wondering whether or not the law-abiding citizens have leveled the playing field.

But they clashed as Van Hollen contended Bucher was a late-comer to the issue.

When asked about what separated him from his opponent, Van Hollen said it was the weapons issue.

There are a few issues we differ on . . . I believe perhaps we have in the past. You will find that I always favored concealed carry, I believe I'm the only candidate that has done that.

Bucher took exception.

I have always supported concealed carry. Anybody who says I didn't doesn't know my record and is misrepresenting it.

- Bucher and Van Hollen said they believe the proposed Defense of Marriage Act would also stand up to constitutional tests, and agreed it will not prohibit private employers from offering domestic partnership benefits (even though opponents of the amendment said it would).

Bucher said.

If a firm or any other entity wants to provide same-sex partnership benefits—be my guest. Government, however, should not be forced to do it. The taxpayers of this state should not be forced to do it under the guise that it's a marriage.

"The people of the state of Wisconsin don't want those governmental mandates, but they want permissiveness for businesses and other entities. That constitutional amendment provides both sides of the coin," Van Hollen said.

- The candidates said they'd focus the power of the AG office on fighting crime, and blasted Lautenschlager for pursuing issues like suing the federal government over FDA approval of the "morning after" pill.
- Bucher jabbed at Van Hollen for lacking his experience of 20 years as a DA.

I have done this my entire career. I have not gone from job to job to job. I am not trying to use this position or any other position to satisfy anything other than getting into the attorney general's office and being a law enforcement official.

"I don't agree that moving from one job to the next means you have a lack of experience,"

Van Hollen countered. "The fact that I have been promoted by the president of the United States to a law enforcement leadership experience beyond simply being a district attorney shouldn't be a negative against J.B. Van Hollen."

- Democrats attacked Van Hollen for an abortion comment he made at the debate.

Asked whether "government should be involved in the personal decisions as to whether somebody should have an abortion," Van Hollen responded with the following:

I believe government should be involved in our lives as little as humanly possible. . . . But obviously I don't believe in anarchy. I believe the government has to be involved in our lives in certain circumstances. Government has to be involved in our lives for purposes of protecting the public and protecting the safety of all citizens. All individuals, including an unborn fetus. You are not going to find me saying that I believe that that is something that should be the choice of an individual any more than I believe that homicide in any other circumstance should be the choice of a specific individual.

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Democratic Party of Wisconsin Chairman Joe Wineke said of Van Hollen's comments, "J.B. Van Hollen is saying in no uncertain terms that as attorney general, he would arrest women for exercising their health care rights. It is profoundly disturbing that J.B. Van Hollen apparently believes an incest victim who chooses to terminate a pregnancy is more of a criminal than the perpetrator.

Bucher also expressed his "pro-life" credentials.

I'm pro-life. I've been pro-life my whole life, and I deal with that on a daily basis in my job as district attorney. But government must be involved to some extent, it's all a matter of degrees. And the government has an obligation both legal, and moral, to protect an unborn child. I call it a child. That individual, whether he or she, has the same rights and same reasons to be protected as you and I do, and government has a responsibility to do it. If not government, who else?

While some Van Hollen supporters were dismayed about his strong anti-abortion statement, saying it could hurt him in a general election, other strategists said getting attacked by the Democratic Party on the abortion issue could help Van Hollen with right-wing activists in the Republican primary.

But for many politicians, the political soap opera on the Democratic side was more interesting.

It wouldn't be the first time there was a big primary race for AG.

The Lautenschlager-Burke primary fizzled. But before that was the 1990 race between Doyle, at the time a former Dane County district attorney, and state Senator Bill Te Winkle. Te Winkle at the time was the establishment candidate, but Doyle beat him and went on to beat Hanaway. Doyle had a scare in the big Republican year of 1994, when former Milwaukee-based U.S. Attorney Jeff Wagner challenged him, but he maintained his undefeated record despite a sometimes-hostile relationship with then Republican Governor

Tommy Thompson. Doyle has yet to lose in a statewide race.

But this primary has different, and maybe dangerous dynamics. This time it's perceived by many Lautenschlager supporters, unions, and activists that a Democratic governor is meddling in a party primary because of personal dislike, creating sympathy for Lautenschlager. Some insiders speculate that a bruising primary between Lautenschlager and Falk could tear the party apart and result in a lot of bad publicity and feelings for Doyle, who already has trouble with the left wing of his party. Lautenschlager also has the backing of two formidable Democratic elders, Bill Dixon and Ed Garvey, and Doyle's liberal lieutenant governor, Barbara Lawton.

As of mid-January Lautenschlager had jumped out to an early lead in union endorsements, always a key component in a Democratic primary. "They love Peg," said a Lautenschlager campaign spokesman. "She's been a stalwart supporter of working men and women in Wisconsin, and they recognize that."

But Democrats speculated Falk could end up with the backing of two big powers—the Wisconsin Education Association Council, a key Doyle ally, and SEIU, the health workers' union that backed Falk in her 2002 governor run.

A Falk campaign spokeswoman suggested her candidate would get her share of union endorsements, adding Falk is getting "fabulous responses" from the unions who are yet undecided. "I hear money is coming together well. But they do need a better political operation," added one Falk friend in December. "Yes, she could still win, but clearly not the way she imagined she would. The blogging has been brutal. Has any (major) labor union indicated they will support Kathleen?" added another veteran Democratic observer.

One union insider said unions that got behind Lautenschlager early were "politically less-sophisticated unions that don't have politi-

cal programs. The more sophisticated unions are keeping their powder dry. . . . There will be more of an even split at the end of the day.”

The insider said the unions have to choose between loyalty, always a meaningful consideration to labor, and pragmatism. While Falk has always been popular with unions, Lautenschlager has been in a better position to help them as AG than Falk has as a county executive, the union insider acknowledged. But many in labor will have to weigh which candidate can win a general election, and which will help most in getting Doyle re-elected.

“Those who may endorse against (Lautenschlager) may believe it's not possible for her to remain as AG, and by promoting her it could hurt Doyle's chances,” he said.

are we with people who have helped us in the past. I think it's an interesting debate.

If we had unlimited money, I would say we need to take care of just the people that have taken care of us in the past. We don't have unlimited money. We need to be smarter about how we use our resources. I think we have to factor electability in. That doesn't mean it's the deciding factor.

Wineke, the state Democratic Party chairman and a Doyle ally, said primaries are often good.

“These are two extremely talented candidates . . . but this notion that somehow primaries are necessarily destructive I don't buy,” Wineke said in a WisPolitics.com Web cast interview late last year. “These are two good

**WISCONSIN ATTORNEY GENERAL — 1959-PRESENT**

Democrat	John Reynolds	1959-63
Republican	George Thompson	1963-65
Democrat	Bronson La Follette	1965-69
Republican	Robert Warren	1969-October 1974
Democrat	Victor Miller	October 8, 1974 to November 25, 1974
Democrat	Bronson La Follette	November 25, 1974 to 87
Republican	Donald Hanaway	1987-91
Democrat	James Doyle	1991-03
Democrat	Peg Lautenschlager	2003-Present

Source: Wisconsin Blue Book

The decision facing unions is reflected in these recent interview comments from Andy Gussert, a Democratic strategist who was recently elected head of AFT-Wisconsin, which as of late December had not endorsed in the race.

If Kathleen Falk runs for attorney general and wins, she could also be the next governor. It would be wonderful for AFT-Wisconsin to have a relationship with our future governor. At the same time, Peg Lautenschlager has been sticking up for issues repeatedly . . . being a hard advocate. So we have to take a hard look where

people. I don't see them throwing brickbats at each other for the next year. . . . I think that primaries in most cases actually enhance a candidate going into November. . . . I think both Peg and Kathleen can win in November. I think a good primary that stays above board helps them both.”

But even if Republicans get their wish and Lautenschlager and Falk beat up each other and splatter Doyle in the process, history isn't exactly on the side of Republicans in their quest to take back this office. The office in Wisconsin has been in GOP hands only 11 of

the 46 years dating back to 1959, when Stewart Honeck gave up the office to future Democratic Governor John Reynolds in 1959.

And lately, while Republicans have dominated the Legislature and many special elections, they haven't done well in statewide contests. Going into the November 2006 elections, the top statewide Republican elected official is Treasurer Jack Voight. On the federal front, there are two Democratic U.S. Senators and a losing record in the presidential elections since Reagan's re-election victory in 1984 (Vote fraud or no fraud, the record shows that Republicans have come close to taking Wisconsin in the George W. Bush's election runs, but have come up short both times.)

Then came sub-par numbers for a lame-duck president, and predictions in some quarters of a banner Democratic year. Bush's numbers rebounded, as did Republican hopes late in the year.

Some Republicans claim the odds of taking the seat went down when Falk entered the race.

"It is what it is. We worry about things we can control. And we can't control a primary on the Democratic side," said state GOP Chairman Rick Graber in a WisPolitics.com Web cast interview late last year.

What we do have is two very strong candidates. . . . On the other side, we've got the current attorney general, whose conduct in office is well documented, is a fair topic for discussion. And you've got Kathleen Falk, who from what I can tell, on the far fringe of her party. . . . This is (also) a person that has virtually no (criminal) prosecutorial experience.

Added Graber, "I think the one thing you can predict is that none of these candidates will have a whole lot of money coming out of the (September) primary. So it will be a fair fight."

A fight that politicians will watch with great interest.